Journals

of the

Florida
House of Representatives

Volume II

Continuation of Regular Session, 2001

April 27 through May 2, 2001

The Journals with indices are available on the
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Volume II

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MEMBERS OF THE HOUSE OF REPRESENTATIVES
[Republicans in roman (77); *Democrats in italic (43)*]

District

1. *Parts of* **Escambia, Okaloosa, Santa Rosa**
   Jefferson B. "Jeff" Miller, Chumuckla
2. *Part of* **Escambia**
   Jerry Louis Maygarden, Pensacola
3. *Part of* **Escambia**
   Anna Holliday "Holly" Benson, Pensacola
4. *Parts of* **Escambia, Okaloosa, Santa Rosa**
   Jerry G. Melvin, Fort Walton Beach
5. **Holmes, Washington** *and parts of* **Okaloosa, Walton**
   Donald D. "Don" Brown, DeFuniak Springs
6. *Part of* **Bay**
   Allan G. Bense, Panama City
7. **Calhoun, Gulf, Jackson, Liberty** *and parts of* **Bay, Gadsden, Leon, Walton**
   Bev Kilmer, Quincy
8. *Parts of* **Gadsden, Leon**
   Curtis B. Richardson, Tallahassee
9. *Part of* **Leon**
   Loranne Ausley, Tallahassee
10. **Franklin, Jefferson, Levy, Taylor, Wakulla** *and parts of* **Alachua, Dixie, Gilchrist, Leon, Marion**
    Will S. Kendrick, Carrabelle
11. **Columbia, Hamilton, Lafayette, Madison, Suwannee** *and parts of* **Dixie, Gilchrist**
    Dwight Stansel, Wellborn
12. **Baker, Bradford, Nassau, Union** *and part of* **Duval**
    Aaron P. Bean, Fernandina Beach
13. *Parts of* **Clay, Duval**
    Mike Hogan, Jacksonville
14. *Part of* **Duval**
    Terry L. Fields, Jacksonville
15. *Part of* **Duval**
    E. Denise Lee, Jacksonville
16. *Part of* **Duval**
    Mark Mahon, Jacksonville
17. *Part of* **Duval**
    Stan Jordan, Jacksonville
18. *Parts of* **Duval, St. Johns**
    Don Davis, Jacksonville
19. *Parts of* **Clay, Duval, St. Johns**
    Dick Kravitz, Jacksonville

District

20. *Parts of* **Clay, Flagler, St. Johns, Volusia**
    Doug Wiles, St. Augustine
21. **Putnam** *and parts of* **Clay, Marion**
    Joe H. Pickens, Palatka
22. *Parts of* **Alachua, Marion**
    Perry C. McGriff, Jr., Gainesville
23. *Parts of* **Alachua, Marion**
    Edward L. "Ed" Jennings, Jr., Gainesville
24. *Part of* **Marion**
    Dennis K. Baxley, Ocala
25. *Parts of* **Lake, Marion, Seminole, Volusia**
    Carey Baker, Mount Dora
26. *Parts of* **Flagler, Lake, Volusia**
    Joyce Cusack, DeLand
27. *Part of* **Volusia**
    Evelyn J. Lynn, Ormond Beach
28. *Part of* **Volusia**
    Suzanne M. Kosmas, New Smyrna Beach
29. *Part of* **Brevard**
    Randy John Ball, Mims
30. *Part of* **Brevard**
    Mike Haridopolos, Melbourne
31. *Part of* **Brevard**
    Mitch Needelman, Melbourne
32. *Parts of* **Brevard, Indian River, Orange**
    Bob Allen, Merritt Island
33. *Parts of* **Orange, Seminole, Volusia**
    Tom Feeney, Oviedo
34. *Parts of* **Orange, Seminole**
    David J. Mealor, Lake Mary
35. *Parts of* **Orange, Seminole**
    Jim Kallinger, Winter Park
36. *Part of* **Orange**
    Allen Trovillion, Winter Park
37. *Parts of* **Orange, Seminole**
    David Simmons, Longwood
38. *Parts of* **Lake, Orange**
    Frederick C. "Fred" Brummer, Apopka
39. *Part of* **Orange**
    Gary Siplin, Orlando
40. *Part of* **Orange**
    Andy Gardiner, Orlando
41. *Parts of* **Lake, Orange, Osceola**
    Randy Johnson, Celebration

District

42. *Parts of* **Lake, Marion, Sumter**
Hugh H. Gibson III, Lady Lake

43. **Citrus** *and parts of* **Hernando, Marion**
Nancy Argenziano, Dunnellon

44. *Parts of* **Hernando, Lake, Pasco, Polk, Sumter**
David D. Russell, Jr., Brooksville

45. *Parts of* **Hernando, Pasco**
Mike Fasano, New Port Richey

46. *Part of* **Pasco**
Heather Fiorentino, New Port Richey

47. *Parts of* **Hillsborough, Pinellas**
Rob Wallace, Tampa

48. *Parts of* **Hillsborough, Pinellas**
Gus Michael Bilirakis, Palm Harbor

49. *Part of* **Pinellas**
Larry Crow, Palm Harbor

50. *Part of* **Pinellas**
Kim Berfield, Clearwater

51. *Part of* **Pinellas**
Leslie Waters, Seminole

52. *Part of* **Pinellas**
Frank Farkas, St. Petersburg

53. *Part of* **Pinellas**
Charlie Justice, St. Petersburg

54. *Part of* **Pinellas**
John Carassas, Belleair

55. *Parts of* **Hillsborough, Manatee, Pinellas**
Frank Peterman, Jr., St. Petersburg

56. *Part of* **Hillsborough**
Sandra L. "Sandy" Murman, Tampa

57. *Part of* **Hillsborough**
Chris Hart IV, Tampa

58. *Part of* **Hillsborough**
Bob "Coach" Henriquez, Tampa

59. *Part of* **Hillsborough**
Arthenia L. Joyner, Tampa

60. *Part of* **Hillsborough**
Sara Romeo, Lutz

61. *Parts of* **Hillsborough, Pasco**
Kenneth W. "Ken" Littlefield, Dade City

62. *Part of* **Hillsborough**
Johnnie B. Byrd, Jr., Plant City

63. *Part of* **Polk**
Dennis A. Ross, Lakeland

64. *Part of* **Polk**
Paula Bono Dockery, Lakeland

District

65. *Part of* **Polk**
Marsha L. "Marty" Bowen, Haines City

66. *Parts of* **Hillsborough, Polk**
JD Alexander, Lake Wales

67. *Parts of* **Hillsborough, Manatee, Sarasota**
Michael S. "Mike" Bennett, Bradenton

68. *Part of* **Manatee**
Mark G. Flanagan, Bradenton

69. *Part of* **Sarasota**
Donna Clarke, Sarasota

70. *Part of* **Sarasota**
Nancy C. Detert, Venice

71. *Parts of* **Charlotte, Sarasota**
Jerry Paul, Englewood

72. **DeSoto, Hardee** *and parts of* **Charlotte, Lee**
Lindsay M. Harrington, Punta Gorda

73. *Part of* **Lee**
Bruce Kyle, Fort Myers

74. *Parts of* **Charlotte, Lee, Sarasota**
Jeffrey D. "Jeff" Kottkamp, Cape Coral

75. *Parts of* **Collier, Lee**
Carole Green, Fort Myers

76. *Part of* **Collier**
J. Dudley Goodlette, Naples

77. **Glades, Hendry** *and parts of* **Collier, Highlands**
Joseph R. "Joe" Spratt, LaBelle

78. *Parts of* **Highlands, Martin, Okeechobee, Palm Beach, St. Lucie**
Richard A. Machek, Delray Beach

79. *Parts of* **Okeechobee, Osceola**
Frank Attkisson, Kissimmee

80. *Parts of* **Indian River, St. Lucie**
Stan Mayfield, Vero Beach

81. *Parts of* **Martin, St. Lucie**
Gayle B. Harrell, Stuart

82. *Parts of* **Martin, Palm Beach**
Joe Negron, Stuart

83. *Part of* **Palm Beach**
Jeffrey H. "Jeff" Atwater, North Palm Beach

84. *Part of* **Palm Beach**
James "Hank" Harper, Jr., West Palm Beach

85. *Part of* **Palm Beach**
Lois J. Frankel, West Palm Beach

86. *Part of* **Palm Beach**
Susan Bucher, Lantana

87. *Part of* **Palm Beach**
William F. "Bill" Andrews, Delray Beach

District

88. *Part of* **Palm Beach**
Anne M. "Annie" Gannon, Delray Beach

89. *Part of* **Palm Beach**
Irving L. "Irv" Slosberg, Boca Raton

90. *Part of* **Broward**
Mark Weissman, Parkland

91. *Parts of* **Broward, Palm Beach**
Connie Mack, Fort Lauderdale

92. *Part of* **Broward**
John P. "Jack" Seiler, Wilton Manors

93. *Part of* **Broward**
Christopher L. "Chris" Smith, Fort Lauderdale

94. *Part of* **Broward**
Matthew J. "Matt" Meadows, Lauderhill

95. *Part of* **Broward**
Ron L. Greenstein, Coconut Creek

96. *Part of* **Broward**
Stacy J. Ritter, Coral Springs

97. *Part of* **Broward**
Nan H. Rich, Weston

98. *Part of* **Broward**
Roger B. Wishner, Sunrise

99. *Part of* **Broward**
Timothy M. "Tim" Ryan, Dania Beach

100. *Part of* **Broward**
Eleanor Sobel, Hollywood

101. *Parts of* **Broward, Dade**
Kenneth Allan "Ken" Gottlieb, Hollywood

102. *Parts of* **Collier, Dade**
Rafael "Ralph" Arza, Hialeah

103. *Part of* **Dade**
Wilbert "Tee" Holloway, Miami

District

104. *Part of* **Dade**
Frederica S. "Freddi" Wilson, Miami

105. *Part of* **Dade**
Sally A. Heyman, North Miami Beach

106. *Part of* **Dade**
Dan Gelber, Miami Beach

107. *Part of* **Dade**
Gustavo A. Barreiro, Miami Beach

108. *Part of* **Dade**
Phillip J. Brutus, Miami Shores

109. *Part of* **Dade**
Dorothy Bendross-Mindingall, Miami

110. *Part of* **Dade**
Rene Garcia, Hialeah

111. *Part of* **Dade**
Marco Rubio, Coral Gables

112. *Part of* **Dade**
Mario Diaz-Balart, Miami

113. *Part of* **Dade**
Manuel Prieguez, Miami

114. *Part of* **Dade**
Gaston I. Cantens, Miami

115. *Part of* **Dade**
Renier Diaz de la Portilla, Miami

116. *Part of* **Dade**
Annie Betancourt, Miami

117. *Part of* **Dade**
Carlos A. Lacasa, Miami

118. *Part of* **Dade**
Edward B. "Ed" Bullard, Miami

119. *Part of* **Dade**
Cindy Lerner, Miami

120. **Monroe** *and part of* **Dade**
Ken Sorensen, Key Largo

OFFICERS OF THE HOUSE OF REPRESENTATIVES

Speaker—Tom Feeney
Speaker pro tempore—Sandra L. "Sandy" Murman
Clerk—John B. Phelps
Sergeant at Arms—Earnest W. Sumner

The Journal OF THE House of Representatives

Number 19 **Friday, April 27, 2001**

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

Prayer

The following prayer was offered by the Reverend Thomas C. Veit of St. Mary the Virgin Church of Brandon, upon invitation of Rep. Byrd:

Most gracious God, we humbly beseech Thee for the people of the great state of Florida in general, and especially for the House of Representatives here assembled, that Thou wouldst be pleased to direct and prosper all their consultations to the advancement of Thy glory and safety, honor, and welfare of Thy people. That all things may be so ordered and settled by their endeavors, upon the best and surest foundations, that peace and happiness, truth and justice, religion and piety, may be established among us for all generations. We beseech Thee to guide and bless the Legislature of this state, that they may ordain for our governance only such things as please Thee, to the glory of Thy name and the welfare of the people. These and all other necessary things, for them, for us, and for the great state of Florida, we humbly ask in the name of Almighty God. Amen.

The following Members were recorded present:

Session Vote Sequence: 199

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

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

A quorum was present.

Pledge

The Members, led by Adam Castellanos of Miami, Michael Stephen Cummons II of Jacksonville, Christina Marie Cusack of Orlando, Joshua Ryan Hicks of Tallahassee, Mike Jowers of Jacksonville, Jarrett Kime of Orlando, Veronica Leigh Lopez of Tallahassee, Holly Danielle Messer McFadden of Crawfordville, Allison Moore of Tallahassee, Ashley Moore of Tallahassee, John Steven Sheppard of Blountstown, Peter Joshua Tebow of Bryceville, Patricia Urban of Tampa, and Christopher Wright of Tallahassee, pledged allegiance to the Flag. Adam Castellanos served at the invitation of Rep. Lacasa. Michael Stephen Cummons II, Mike Jowers, and Peter Joshua Tebow, served at the invitation of Rep. Hogan. Christina Marie Cusack served at the invitation of Rep. Trovillion. Joshua Ryan Hicks served at the invitation of Rep. Richardson. Jarrett Kime served at the invitation of Rep. Bilirakis. Veronica Leigh Lopez served at the invitation of Rep. Bucher. Holly Danielle Messer McFadden served at the invitation of Rep. Kendrick. Patricia Urban served at the invitation of Rep. Murman.

Correction of the *Journal*

The *Journal* of April 26 was corrected and approved as follows: On page 849, column 1, lines 2 through 4 from the bottom, delete all of said lines and insert: On motion by Rep. Kendrick, the House reconsidered the vote by which Amendment 1 was laid on the table earlier today.

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

And on page 942, column 1, line 13 from the bottom, delete "which was withdrawn." and insert in lieu thereof: which was adopted.

Reports of Councils and Standing Committees

Report of the Procedural & Redistricting Council

The Honorable Tom Feeney April 26, 2001
Speaker, House of Representatives

Dear Mr. Speaker:

Your Procedural & Redistricting Council herewith submits as Special Orders for Friday, April 27, 2001. Consideration of the House Bills on Special Orders shall include the Senate Companion Measures on the House Calendar.

I. Consideration of the attached list of bills:

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

Respectfully submitted,
Johnnie B. Byrd, Jr.
Chair

Special Orders for Friday, April 27, 2001

489	Johnson	High Speed Rail Study Commission
251	Kilmer	Sales Tax Exemption/Clothing
991	Mayfield	Funeral & Cemetery Services
1889	Ritter	Taxation/Communication Services
1891	Ritter	Public Records/Communications Tax
1893	Ritter	Local Communications Services Tax TF
1919	Dockery	Technology Enterprise Trust Fund/DMS
1943	Brummer	Bargaining Agent's Dues/Assessments
201	Rubio	Moving Traffic Violation/Fees
427	Fiorentino	Homelessness
1015	Harrell	Young Children/Learning Gateway (Pending Committee Action)
1661	Mealor	John McKay Scholarships/ Students/Disabilities
1193	Arza	Education
1535	Lynn	Public Records/Edu. Professionals
1655	Clarke	Labor & Employment Security Dept.
1845	Hart	Criminal Use of Personal ID Info.
1977	Lacasa	State Planning & Budgeting
1931	Lacasa	Health Insurance Subsidy/Retirees
1981	Wallace	Tax Administration
1909	Dockery	Purchasing & Transportation Support
1941	Dockery	Trust Funds
1633	Attkisson	Student Assessment
1811	Hart	Information Technology
379	Allen	Entertainment Industry
1187	Wishner	White Collar Crime Victim Protection
1673	Kyle	Domestic Violence
589	Fasano	Local Govt. Utilities Assistance Act
161	Argenziano	Citrus/Hernando Waterways Council
729	Argenziano	Environmental Control
1863	Farkas	Onsite Sewage Treatment & Disposal
1691	Atwater	Law Enforcement Officers
805	Benson	Pool/Spa Servicing Contractor
1439	Berfield	Health Insurance
579	Crow	Uniform commercial Code
973	Davis	Property Tax/Disabled/Physicians
455	Detert	Mortgage Brokers & Lenders
437	Farkas	Pharmacists/Licensure by Endorsement
605	Gibson	Florida Alzheimer's Training Act
523	Green & Heyman	Nursing Student Loan Forgiveness
1485	Kravitz	Sexual Offenders Release Supervision
411	Kyle	Florida Mobile Home Act
1067	Kyle	Physician Records/Adverse Incidents
167	Littlefield	Domestic Violence
305	Littlefield	Ad Val Tax/Resident in Another State
997	Littlefield	Spinal Cord Injuries/Pilot Program
1577	Machek	Water Mgmt. District Fiscal Matters
1077	Mack	Health Care/Alternative Treatment
163	Prieguez	Tax/Collegiate Facility Renovation
613	Ross	Construction Contracts
159	Rubio	HMO/Physicians/ Adverse Determination
1713	Lacasa	State Employee Benefits
1765	Melvin	Public Protection
1085	Pickens	Rodman Reservoir State Reserve
1777	Murman	Schools/Adult Entertainment Location
1947	Lacasa	Public Employees/Optional Retirement
1249	Littlefield	Adoption Benefits/State/WMD Employee
649	Bilirakis	Law Enforcement Officers Disability
1933	Lacasa	Public Employee Disability TF/DMS
37	Paul	Absentee Ballots (Memorial)
1221	Cantens	Water Mgmt Districts
1663	Harrell	Seaport Security
1403	Mealor	Health Care
1153	Harrell	Certificate of Need
1529	Simmons	Controlled Substances
1189	Diaz-Balart	Brownfield Redevelopment Incentives
1951	Brummer	Public Records/Paratransit Services
1883	Johnson	Administrative Trust Fund
731	Kottkamp	Public Records/Local Govt/WMD
1415	Kallinger	Medicaid/Environmental Modification
979	Melvin	North Okaloosa Fire District
1957	Hart	State Technology/Property & Services
137	Goodlette	Probate
1341	Benson	Ad Val Tax / Refund of Filing Fees
247	Harrell	Unfair Discrimination/Insurance
109	Cantens	Collection of Consumer Debts
573	Gibson	Homestead Assessment /Elderly Living
295	Gibson	Ad Val Tax Exemption/Elderly Living
1205	Diaz-Balart	School Employee/Unused Sick Leave
1255	Diaz-Balart	Florida Building Code
1411	Pickens	District School Tax
1519	Berfield	Clearinghouse on Disability Info.
1785	Haridopolos	Brevard Co/City of Satellite Beach
1759	Hart	Stalking Offense/Cyberstalk
345	Johnson	Sports Industry Economic Development
1545	Lynn	Schools/Performance Reporting
1509	Diaz-Balart	Student Financial Assistance
1043	Kilmer	Sewer, Water, & Stormwater Systems
267	Kravitz	School Attendance/Violent Offenders
281	Alexander	Higher Educational Facilities
1089	Bilirakis	Real Estate professionals
599	Mack	Public Record/Child Support Services
1091	Wishner	Fla. Golf License Plate
1829	Russell	Motor Vehicle Titles
329	Baxley	Drug Free Legislators
1833	Crow	Real Property Liens/Duration
453	Prieguez	Energy Performance Savings
1207	Carassas	Nonprofit Civic Organization/Alcohol
209	Maygarden	Taxes/Property/Airports & Seaports
1009	Baxley	Excise Tax on Documents
3	Ball	Citizens' Right to Honest Gov't Act
211	Maygarden	Civil Actions/Admission of Liability
529	Wallace	Outcome-Based Total Accountability
521	Green	Financial Institutions
571	Johnson	Economic Impact Statement/Voting
575	Baker	Filing Fees/Corporate Fee
955	Bean	Correctional Officers / Job Protection
593	Bowen	Municipal Law Enforcement Officers
757	Barreiro	Wrecker Liens
767	Brown	Structured Settlements
1959	Hart	Technology Enterprise Operating TF
791	Hogan	Property Exempt from Legal Process
989	Mealor	Universities Designations
1111	Allen	Spaceport Infrastructure Act
1763	Hart	DEP/Public Notices/Internet Costs
1491	Attkisson	Wastewater Residual Reduction Act
9	Ball	Solid Waste Management Facilities
113	Trovillion	Construction / Prompt Payment Act
1955	Hart	Law Enforcement Radio Operating TF
747	Brown	Credit Insurance
961	Carassas	Nursing Homes & Health Care Facility
1969	Harrington	Land Acquisition & Mgmt
1425	Bowen	Violent Crime & Drug Control Council
625	Bean	Security for Public Deposits
441	Baker	County Government/Property Sales
595	Haridopolos	Landlord & Tenant
1031	Carassas	Durable Powers of Attorney
1611	Arza	Relief/Mary Beth Wiggers/DOC
1219	Brown	Insurance Agents
1059	Baker	NASA's Small Aircraft Transportation
789	Mealor	Governmental Data Processing
19	Greenstein	Fair Housing Act
73	Wallace	Fla. Customer Service Standards Act

131	Harrington	Correctional Facilities
259	Slosberg	Driver's Licenses/DUI Convictions
689	Wallace	Taxes/Limitations
293	Crow	Certified Capital Company Act
301	Wilson	Testing of Inmates for HIV
315	Kottkamp	Opticianry/Violations & Penalties
331	Baxley	Physician Assistants
351	Mayfield	Deferred Compensation Programs
371	Spratt	Electric Utilities/Interruption
1349	Mealor	Crimes/Using 2-way communications
569	Garcia	Probation or Community Control
1835	Crow	Excise Tax/Real Property
811	Clarke	Criminal Records/Obscene Materials
863	Ritter	North Springs Improvement District (LB)
967	Gardiner	Enterprise Zones/Boundaries
497	Andrews	Homicide of an Unborn Child
1039	Paul	Ad Val/Disabled Ex-Service Members
235	Prieguez	Dental Service Claims/Appeals
1203	Mealor	Motor Vehicles
1379	Flanagan	Emergency Telephone System
1401	Pickens	DUI
1547	Kottkamp	Fla. Prepaid College Program
1603	Mayfield	Comprehensive Everglades Restoration
1635	Goodlette	Environmental Control
147	Ball	DNA Evidence
261	Jordan	Law Officer/Background Investigators
719	Stansel	Agri.Products/Damage or Destruction
1397	Greenstein	Florida Mobile Home Relocation TF
1147	Kendrick	Public Records/Personal/Medical
1437	Ball	Public Records/Communications Systems
1615	Brummer	School District Guarantee Program
545	Carassas	David Levitt School Anti Hunger Act
1433	Bennett	Growth Management
1601	Jennings	Workforce Development
465	Baker	Tuition/Residency/National Guard
1339	Farkas	State University System
5	Heyman	Retired Judges
7	Heyman	Eminent Domain/Public School Purpose
11	Heyman	Drivers/Secondary Activity
25	Crow	Offenses Against Children
61	Trovillion	Open Contracting Act
65	Trovillion	Public Libraries/Computers/Obscenity
85	Meadows	Florida Infant Crib Safety Act
99	Weissman	Ad Valorem Tax Exemption
157	Weissman	Motor Vehicle Airbags
193	Kosmas	Public Health Care Employees/Safety
199	Trovillion	Substance Abuse Treatment Programs
213	Barreiro	Money Transmitter's Code
239	Allen	Child Safety Booster Seat Act
255	Bullard	Citrus Canker Eradication
285	Wilson	Sexual Violence/Jails & Prisons
289	Barreiro	Motorsports Entertainment Complex
309	Crow	Surplus Lines Insurance
337	Garcia	Public Libraries/Operating Grants
341	Attkisson	Officer Malcolm Thompson Act
349	Gannon	Support Owed to Child or Spouse
357	Crow	Parental Consent/Medical Treatment
361	Stansel	Sentencing
363	Henriquez	Tampa-Hillsborough Co. Expressway
375	Seiler	Unlawful Killing of Human Being
421	Bean	Mental Health Treatment/Adults
1701	Smith	Public Records/Code Enforc. Officers
423	Greenstein Bucher	Individual Development Accounts
443	Wallace & McGriff	Industrial Partnership Professorship
457	Lee	Property & Casulty Insurers
483	Wiles & others	Medicaid Eligibility/Work Incentives
533	Miller	Professions Regulated by DBPR
541	Rubio	Alcoholic Beverages/Underage Student
615	Kallinger	Payment or Performance Bonds
617	Harper	Youthful Offenders
623	Mack	Government Accountability
635	Hart	Driver's Licenses/Selective Service
645	Henriquez	Alcoholic Beverages/Nonprofit Orgs.
653	Bilirakis	Access to Medical Treatment Act
685	Romeo	Consumer Protection
707	Kyle	State Lottery Commisson
733	Wiles	Lighthouses/Study
737	Lerner	Security of Medical Facilities
751	McGriff	Indigent Hospital Patients
759	Bilirakis	Character Evidence/Child Molestation
771	Rubio	Certificate of Need
793	Hogan	Elderly Persons & Disabled Adults
795	Justice	Relief/Alfred Roberts/St. Petersburg
825	Gardiner	Constitutional Amendments/Approval
947	Seiler	Decedent's Medical Records/Presuits
949	Attkisson	Local Water or Wastewater Utilities
985	Justice	Med. Records/Solicitation/Marketing
1049	Betancourt	Cargo Theft
1051	Andrews	CPA/Null & Void License/Reinstate
1087	Pickens	Florida State Boxing Commission
1097	Kyle	Real Estate Brokers
1121	Byrd	Driver Licenses/Co. Tax Collectors
1127	Andrews	Non-Ad Valorem Assessments
1129	Greenstein	Nursing Programs
1133	Brutus	Correctional Work Programs/Operation
1197	Berfield	Legislative Oversight
1215	Andrews	Taxation/New Product Development
1223	Cantens	Commercial Buildings Construction
1225	Pickens	Economic Development
1239	Diaz-Balart	Motor Vehicle Dealer/Franchises
1241	Hart	Welfare Transition Trust Fund
1263	Dockery	Mining
1361	Arza & others	Charter Schools
1367	Gottlieb	Local Govt. /Financial Emergency
1371	Betancourt	Optional Medicaid Services/Dental
1377	Benson	Civil Rights/Complaints
1389	Dockery	Rural & Family Lands Protection Act
1393	Spratt	Hurricane Loss Mitigation Program
1405	Clarke & others	Student Records
1407	Kallinger	Toni Jennings Blvd.
1413	Garcia	Relative Caregiver Program
1421	Prieguez	Public Records/Business Info./Taxes
1431	Byrd	Passport to Economic Progress Act
1449	Spratt	Consumer Protection
1451	Negron	Ad Val Exemption/Personal Property
1465	Wiles	Prison Release Reoffender
1469	Rich	Public Employees/Volunteers/Ins.
1489	Dockery	FWC Commission/Funding
1513	Simmons	Insurance Competitions/Compensations
1523	Slosberg	Public Records/Tobacco Industry
1537	Brummer	Public Records/Agency/Contracting
1539	Prieguez	Economic Development
1543	Farkas	Health Care Practitioner/Credentials
1551	Jennings	Enterprise Zones/Boundaries
1587	Baxley	Illegal Personal Property or Equip.
1607	Bennett	Insurance Department
1649	Bense	Condominiums
1683	Miller	Unlawful Activities/Driver's License
1687	Slosberg	Teenage Driver Education
1703	Detert	Adoption & Medical Asst. Compact
1709	Dockery	Boiler Safety
1755	Goodlette	Judicial Office/Earlier Qualifying
1771	Melvin	Juvenile Records/Confidentiality
1783	Brutus	Universitites/Credit & Debit Cards
1801	Kilmer	Univ. of West Fla. & FAU/Degrees
1817	Cantens	Condominiums & Cooperatives
1819	Waters	Insurance/Public Records Illegal Use
1827	Sorensen	Special Districts
1831	Harrington	Demineralization Concentrate
1843	Farkas	Nursing
1853	Goodlette	Foreign Govt./Civil Court Action

1869	Crow	Child Support Enforcement
1873	Farkas	Health Care
1875	Russell	Driver Licensing Study Commission
1877	Spratt	Obsolete & Inactive Provisions
1905	Russell	Transportation Outreach Program
1907	Kyle	Condominiums
1923	Kyle	Business & Professional Reg. Dept.
1945	Brummer	Commodities & Contractual Services
1961	Wallace	Sales Tax/State Tax Policy
1965	Wallace	Ad Val Tax/Tangible Property
1967	Needelman	Corrections Department
1973	Wallace	State Debt
1975	Wallace	Corp. Income Tax/Internal Revenue
1979	Wallace	Trust Fund Administration
1983	Wallace	Ad Valorem Tax Administration
829	Ritter	Broward Co./Lauderdale-By-The-Sea
831	Ritter	Broward Co. / Pompano Beach
835	Ritter	Broward Co./Corporate Boundaries
837	Ritter	Sunshine Drainage District
839	Ritter	Broward Co./Control of Dogs
843	Ritter	Coral Springs/Corporate Limits
853	Carrassas	Pinellas Co./Tourist Dev. Council
867	Romeo	Hillsborough Co./Tourist Development
869	Ritter	Broward Co./Concurrency Requirements
873	Frankel	West Palm Beach/Police Pension
891	Wiles	Daytona Beach/Submerged Lands/Lease
899	Murman	Tampa/Firefighters & Police Pension
917	Bucher	Palm Beach Co./Building Code
921	Bennett	Manatee Co. /Fire & Rescue District
923	Bennett	Bayshore Gardens Park & Recreations
935	Miller	Pensacola/Civil Service System
941	Jordan	Jacksonville/Civil Service Status
1161	Sorensen	Florida Keys/Fed. Emergency Mgmt.
1177	Kottkamp	Florida Waterways/Open Access
1797	Melvin	Dr. Ed Haskell Legislative Clinic
1849	Bennett	Manatee Co. /Mosquito Control Dist.
1865	Crow	Judiciary/Number Increases
1963	Wallace	Income Tax Deduction/Sales Taxes
1985	Brummer	Public Records/Exemptions

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

Motions Relating to Committee or Council References

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 459 was withdrawn from the Council for Smarter Government and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 561 was withdrawn from the Committee on Fiscal Policy & Resources and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1017 was withdrawn from the Council for Competitive Commerce and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1099 was withdrawn from the Committee on Fiscal Policy & Resources and the Council for Ready Infrastructure and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1477 was withdrawn from the Council for Smarter Government and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1507 was withdrawn from the Committee on Judicial Oversight and remains referred to the Council for Competitive Commerce.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1621 was withdrawn from the Council for Ready Infrastructure and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1911 was withdrawn from the Council for Smarter Government and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1949 was withdrawn from the Council for Ready Infrastructure and placed on the Calendar of the House.

Bills and Joint Resolutions on Third Reading

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

Special Orders

Special Order Calendar

HB 489—A bill to be entitled An act relating to high-speed rail; creating the High-Speed Rail Study Commission; providing for membership and appointment; providing for staff; providing for duties of the commission; providing for dissolution of the commission upon submission of a required report; directing the Department of Transportation to begin collecting and organizing existing data on high-speed rail systems; providing an appropriation; providing an effective date.

—was read the second time by title.

Representative(s) Mayfield offered the following:

(Amendment Bar Code: 050595)

Amendment 1—On page 1, line 29 and page 4, line 18
remove from the bill: *Study*

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

Representative(s) Mayfield offered the following:

(Amendment Bar Code: 361681)

Amendment 2 (with title amendment)—On page 2, line 1
remove from the bill: *Study*

And the title is amended as follows:

On page 1, line 3
remove from the title of the bill: Study

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

Representative(s) Mayfield offered the following:

(Amendment Bar Code: 915519)

Amendment 3—On page 3, line 17 of the bill, after the semicolon

insert: *the use of existing rail;*

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

Representative(s) Mayfield offered the following:

(Amendment Bar Code: 362769)

Amendment 4—On page 4, line 4
remove from the bill: all of said line

and insert in lieu thereof:

(f) The commission is tasked with providing the documentation necessary to seek and obtain federal funding in order to build a high-speed rail system in Florida.

(g) Any other issues the commission deems relevant to

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

Representative(s) Johnson offered the following:

(Amendment Bar Code: 942647)

Amendment 5—On page 4, lines 4-5
remove from the bill: remove all of said lines

and insert in lieu thereof:

(f) The possibility and costs of using existing rail.

(g) Any other issues the commission deems relevant to the development of a high-speed rail system.

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

Representative(s) Mayfield offered the following:

(Amendment Bar Code: 235399)

Amendment 6—On page 4, line 19
remove from the bill: *$400,000*

and insert in lieu thereof: *$3 million*

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

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

HB 251—A bill to be entitled An act relating to the tax on sales, use, and other transactions; specifying a period during which the sale of clothing and certain other items shall be exempt from such tax; defining "clothing"; providing exceptions; providing for rules; providing an appropriation; providing an effective date.

—was read the second time by title.

Representative(s) Joyner and Gannon offered the following:

(Amendment Bar Code: 571963)

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

and insert in lieu thereof:

Section 1. *For the period beginning at 12:01 a.m., July 28, 2001, and through midnight, August 6, 2001, taxes levied under chapter 212, Florida Statutes, shall have extraordinary administration and be collected in the following manner:*

(a) No tax levied under the provisions of chapter 212, Florida Statutes, shall be collected on sales of clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a selling price of $100 or less, during the period from 12:01 a.m., August 4, 2001, through midnight, August 5, 2001.

(b) Taxes administered on sales of clothing, wallets or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a selling price of $100 unless during the period from 12:01 a.m., July 28, 2001 through midnight, August 4, 2001, shall be collected as stated in chapter 212, Florida Statutes, except that such revenues shall be designated to restore funding to individuals, including individuals over 21 years of age, who qualify to receive adult dental, visual and hearing services under the state Medicaid program.

(c) As used in this section, "clothing" means any article of wearing apparel, including all footwear, except skis, swim fins, in-line skates, and other skates, intended to be worn on or about the human body. For purposes of this section, "clothing" does not include watches, watchbands, jewelry, umbrellas, or handkerchiefs.

(d) This section does not apply to sales within a theme park or entertainment complex, as defined by s. 509.013(9), Florida Statutes, within a public lodging establishment, as defined by s. 509.013(4), Florida Statutes, or within an airport, as defined by s. 330.27(2), Florida Statutes.

(e) The provisions of chapter 120, Florida Statutes, to the contrary notwithstanding, the Department of Revenue may adopt rules to carry out this section.

Section 2. *The sum of $200,000 is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of administering this act.*

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

And the title is amended as follows:

On page ,
remove from the title of the bill: all of said lines

and insert in lieu thereof: A bill to be entitled An act relating to the tax on sales, use, and other transactions; specifying a period during which the sale of clothing and certain other items shall be exempt from such tax; specifying a period during which the taxes collected from the sale of clothing shall be used to restore funding for dental, visual, and hearing services; defining "clothing"; providing exceptions; providing for rules; providing an appropriation; providing an effective date.

Rep. Joyner moved the adoption of the amendment, which failed of adoption. The vote was:

Session Vote Sequence: 200

Yeas—45

Attkisson	Gardiner	Lee	Seiler
Ausley	Gelber	Lerner	Siplin
Bendross-Mindingall	Gottlieb	Machek	Slosberg
Betancourt	Greenstein	Mahon	Smith
Brutus	Harper	McGriff	Sobel
Bucher	Henriquez	Meadows	Weissman
Bullard	Heyman	Negron	Wiles
Carassas	Holloway	Rich	Wilson
Cusack	Jennings	Richardson	Wishner
Fields	Joyner	Ritter	
Frankel	Justice	Romeo	
Gannon	Kosmas	Ryan	

Nays—71

The Chair	Brummer	Harrell	Mealor
Allen	Byrd	Harrington	Melvin
Andrews	Cantens	Hart	Miller
Argenziano	Clarke	Hogan	Murman
Arza	Davis	Johnson	Needelman
Atwater	Detert	Jordan	Paul
Baker	Diaz de la Portilla	Kallinger	Pickens
Ball	Diaz-Balart	Kendrick	Prieguez
Barreiro	Dockery	Kilmer	Ross
Baxley	Farkas	Kottkamp	Rubio
Bean	Fasano	Kravitz	Russell
Bennett	Fiorentino	Kyle	Simmons
Bense	Flanagan	Lacasa	Spratt
Benson	Garcia	Littlefield	Stansel
Berfield	Gibson	Lynn	Trovillion
Bilirakis	Goodlette	Mack	Wallace
Bowen	Green	Mayfield	Waters
Brown	Haridopolos	Maygarden	

Votes after roll call:
Yeas to Nays—Attkisson, Gardiner, Mahon, Negron

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

CS/HB 991 was taken up. On motion by Rep. Mayfield, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1610 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Banking and Insurance and Senator Latvala and others—

CS for SB 1610—A bill to be entitled An act relating to funeral and cemetery services; amending s. 497.003, F.S.; revising references relating to need determinations; amending s. 497.005, F.S.; providing and revising definitions; amending s. 497.201, F.S.; increasing minimum acreage requirements to establish a cemetery company; eliminating need determinations for new cemeteries; clarifying provisions governing authorized trust companies, banks, and savings and loan associations; revising experience requirements for the general manager of a cemetery company; amending s. 497.237, F.S.; authorizing care and maintenance trust funds to be established with a federal savings and loan association holding trust powers in this state; amending s. 497.245, F.S.; revising provisions governing burial rights; amending s. 497.253, F.S.; revising minimum acreage requirements and references, to conform; revising requirements for sale or disposition of certain cemetery lands, to conform; repealing s. 497.353(12), F.S., relating to prohibiting the use in need determinations of spaces or lots from burial rights reacquired by a cemetery, to conform; amending s. 497.405, F.S.; clarifying provisions relating to authorized trust companies, banks, and savings and loan associations; amending s. 497.417, F.S.; clarifying provisions relating to authorized trust companies, banks, and savings and loan associations; revising the authority of certificateholders offering preneed funeral and burial merchandise and services contracts to revest title to trust assets by posting a bond or using other forms of security or insurance; providing a time limitation on such authority; amending s. 497.425, F.S.; providing a time limitation on the authority to post certain bonds to secure preneed contract assets; amending s. 497.429, F.S.; clarifying provisions relating to authorized trust companies, banks, and savings and loan associations with respect to alternative preneed contracts; amending s. 470.002, F.S.; redefining the term "legally authorized person" for purposes of ch. 470, F.S.; providing an effective date.

—was taken up, read the first time by title, and substituted for CS/HB 991. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Mayfield, the rules were waived and CS for SB 1610 was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

Special Orders

Continuation of Special Order Calendar

CS/HB 1889—A bill to be entitled An act relating to tax on communications services; creating s. 202.105, F.S.; providing legislative findings and intent with respect to the Communications Services Tax Simplification Law; amending s. 202.11, F.S.; revising and providing definitions; amending s. 202.12, F.S.; specifying the rates for the state tax; revising provisions relating to application of said tax; providing for application of the tax rate to private communications services and mobile communications services; providing the initial method for determining the sales price of private communications services and a revised method effective January 1, 2004; relieving service providers of certain liability; revising provisions relating to direct-pay permits; creating s. 202.155, F.S.; providing special rules for mobile communications services; providing duties of home service providers and the Department of Revenue in determining a customer's place of primary use and determining the correct taxing jurisdiction; relieving service providers of certain liability; providing requirements with respect to identifying and separately stating the sales price of mobile communications services not subject to the taxes administered under ch. 202, F.S.; amending s. 202.16, F.S.; revising provisions relating to responsibility for payment of taxes and tax amounts and brackets; amending s. 202.17, F.S.; specifying that registration as a dealer of communications services does not constitute registration for purposes of placing and maintaining communications facilities in municipal or county rights-of-way; removing the registration fee for such dealers; revising provisions relating to resale certificates; amending s. 202.18, F.S.; revising provisions relating to distribution of a portion of the proceeds of the tax on direct-to-home satellite service and to distribution of local communications services taxes and adjustment of such distribution; amending s. 202.19, F.S.; revising provisions which authorize imposition of local communications services taxes and provide for use of revenues and certain credits; specifying the maximum rates of such taxes; providing the initial method for determining the sales price of private communications services for local communications services taxes and for the discretionary sales surtax under s. 212.055, F.S., that is imposed as a local communications services tax, and providing a revised method effective January 1, 2004; relieving service providers of certain liabilities; revising requirements relating to the direct-pay permit required to qualify for the limitation on local communications services taxes on interstate communications services; providing for application of local communications services taxes to mobile communications services; amending s. 202.20, F.S.; specifying the local communications services tax conversion rates; revising requirements with respect to adjustment by a local government of its tax rate when tax revenues are less than received from replaced revenue sources; requiring adjustment of the tax rate if revenues received for a specified period exceed a specified threshold; authorizing local governments to increase the tax rate established by the Revenue Estimating Conference and approved by the Legislature to the maximum tax rate so established and approved; amending s. 202.21, F.S.; conforming language; amending s. 202.22, F.S., relating to determination of local tax situs for a local communications services tax; revising requirements relating to use of enhanced zip codes; revising requirements relating to certification or recertification of a database by the department; specifying effect when certain applications for certification are not approved or denied within the required time period; revising provisions relating to a dealer's duty to update a database and to the amount of dealer's credit allowed when an alternative method of assigning service addresses is used; amending s. 202.23, F.S.; providing requirements for refunds when excess communications services tax has been paid; creating s. 202.231, F.S.; providing requirements for provision of information by the department to local taxing jurisdictions; amending s. 202.24, F.S., relating to limitations on local taxes and fees imposed on dealers of communications services; deleting language relating to legislative review; repealing s. 202.26(3)(i), F.S., which provides for adoption of rules by the department with respect to collection of information no longer required; amending s. 202.27, F.S.; deleting provisions which allow certain dealers making sales in more than one location to file a single return; amending s. 202.28, F.S.; including persons collecting the gross receipts tax in provisions relating to the dealer's credit; amending s. 202.37, F.S.; providing requirements for audits conducted with respect to local communications services taxes; providing that certain persons or entities may provide evidence to the department regarding failure to report taxable sales and providing authority of the department with respect thereto; creating s. 202.38, F.S.; providing for credits or refunds under ch. 202, F.S., for certain bad debts or adjustments with respect to taxes under ch. 212, F.S., or ch. 166, F.S., billed prior to October 1, 2001, and no longer subject to tax; creating s. 202.381, F.S.; providing requirements with respect to implementation of ch. 202, F.S., and ch. 2000-260, Laws of Florida, and transition from the previous tax structure; amending s. 203.01, F.S.; specifying the rate of the gross receipts tax on communications services; amending s. 212.031, F.S.; conforming language; amending s. 212.20, F.S.; removing provisions relating to deposit of certain proceeds under ch. 212, F.S., in the Mail Order Sales Tax Clearing Trust Fund; amending ss. 11.45, 218.65, and 288.1169, F.S.; correcting references; amending s. 212.202, F.S.; renaming the Mail Order Sales Tax Clearing Trust Fund as the Communications Services Tax Clearing Trust Fund; amending s. 337.401, F.S.; revising dates for notice of election by municipalities and counties regarding imposition of permit fees to the department; providing that a municipality or county that elects not to impose permit fees on

communications services providers may increase its local tax rate by resolution; requiring notice to the department; repealing s. 337.401(3)(f) and (g), F.S., relating to the authority of municipalities and counties to request in-kind requirements from cable service providers and to negotiate cable service franchises, and revising and relocating such provisions under said section; providing relationship of provisions relating to regulation of placement or maintenance of communications facilities in public roads or rights-of-way by counties or municipalities to zoning or land use authority; providing status of registration under such provisions; authorizing municipalities and counties to change their election regarding imposition of permit fees and providing for adjustment of tax rates; providing notice requirements; revising definitions; specifying continued application of s. 166.234, F.S., relating to administration and rights and remedies, to municipal public service taxes on telecommunications services imposed prior to October 1, 2001; providing for payment of franchise fees by cable or telecommunications service providers with respect to services provided prior to October 1, 2001; providing for severability; repealing s. 52 of ch. 2000-260, Laws of Florida, which provides for a legislative study during the 2001 session; repealing s. 58(1) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of those administrative sections of ch. 202, F.S., which have taken effect; repealing s. 58(2) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of the following provisions prior to their October 1, 2001, effective date: the remainder of ch. 202, F.S., which provides for the taxation of the sale of communications services; other statutory amendments which provide related administrative provisions; provisions which remove levy of the municipal public service tax on telecommunication services; provisions which provide for a gross receipts tax on communications services to be applied pursuant to ch. 202, F.S.; provisions which remove the imposition of tax under ch. 212, F.S., on telecommunication service; provisions relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees; and provisions relating to the application of amendments made by ch. 2000-260, Laws of Florida; repealing s. 59 of ch. 2000-260, Laws of Florida, which, effective June 30, 2001, amends s. 337.401, F.S., relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees, to remove amendments made by ch. 2000-260, Laws of Florida, which took effect January 1, 2001; providing effective dates.

—was read the second time by title.

Representative(s) Ritter and Barriero offered the following:

(Amendment Bar Code: 175593)

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

and insert in lieu thereof:

Section 1. Section 202.105, Florida Statutes, is created to read:

202.105 Declaration of legislative findings and intent.—

(1) It is declared to be a specific legislative finding that the creation of this chapter fulfills important state interests by reforming the tax laws to provide a fair, efficient, and uniform method for taxing communications services sold in this state. This chapter is essential to the continued economic vitality of this increasingly important industry because it restructures state and local taxes and fees to account for the impact of federal legislation, industry deregulation, and the convergence of service offerings that is now taking place among providers. This chapter promotes the increased competition that accompanies deregulation by embracing a competitively neutral tax policy that will free consumers to choose a provider based on tax-neutral considerations. This chapter further spurs new competition by simplifying an extremely complicated state and local tax and fee system. Simplification will lower the cost of collecting taxes and fees, increase service availability, and place downward pressure on price. Newfound administrative efficiency is demonstrated by a reduction in the number of returns that a provider must file each month. By restructuring separate taxes and fees into a revenue-neutral communications services tax centrally administered by the department, this chapter will ensure that the growth of the industry is unimpaired by excessive governmental regulation. The tax imposed pursuant to this chapter is a replacement for taxes and fees previously imposed and is not a new tax. The taxes imposed and administered pursuant to this chapter are of general application and are imposed in a uniform, consistent, and nondiscriminatory manner.

(2) It is declared to be a specific legislative finding that this chapter will not reduce the authority that municipalities or counties had to raise revenue in the aggregate, as such authority existed on February 1, 1989.

Section 2. Subsections (2), (14), and (16) of section 202.11, Florida Statutes, are amended, subsection (18) is added to said section, and, effective August 1, 2002, subsections (8) and (15) are amended and subsections (19), (20), (21), (22), (23), (24), and (25) are added to said section, to read:

202.11 Definitions.—As used in this chapter:

(2) "Cable service" means the transmission of video, audio, or other programming service to purchasers, and the purchaser interaction, if any, required for the selection or use of any such programming service, regardless of whether the programming is transmitted over facilities owned or operated by the cable service provider or over facilities owned or operated by one or more other dealers of communications services. The term includes *point-to-point and* point-to-multipoint distribution services by which programming is transmitted or broadcast by microwave or other equipment directly to the purchaser's premises, but does not include direct-to-home satellite service. The term includes basic, extended, premium, pay-per-view, digital, and music services.

(8) "Mobile communications service" means *commercial mobile radio service, as defined in 47 C.F.R. s. 20.3 as in effect on June 1, 1999* ~~any one-way or two-way radio communications service, whether identified by the dealer as local, toll, long distance, or otherwise, and which is carried between mobile stations or receivers and land stations, or by mobile stations communicating among themselves, and includes, but is not limited to, cellular communications services, personal communications services, paging services, specialized mobile radio services, and any other form of mobile one-way or two-way communications service~~. *The term does not include air-ground radiotelephone service as defined in 47 C.F.R. s. 22.99 as in effect on June 1, 1999.*

(14) "Sales price" means the total amount charged in money or other consideration by a dealer for the sale of *the right or privilege of using* communications services in this state, including any property or other services that are part of the sale. *The sales price of communications services shall not be reduced by any separately identified components of the charge that constitute expenses of the dealer, including, but not limited to, sales taxes on goods or services purchased by the dealer, property taxes, taxes measured by net income, and universal-service fund fees.*

(a) The sales price of communications services shall ~~also~~ include, whether or not separately stated, charges for any of the following:

~~1. Separately identified components of the charge or expenses of the dealer, including, but not limited to, sales taxes on goods or services purchased by the dealer, property taxes, taxes measured by net income, and federal universal-service fund fees.~~

1.~~2.~~ The connection, movement, change, or termination of communications services.

2.~~3.~~ The detailed billing of communications services.

3.~~4.~~ The sale of directory listings in connection with a communications service.

4.~~5.~~ Central office and custom calling features.

5.~~6.~~ Voice mail and other messaging service.

~~6.~~7. Directory assistance.

7. The service of sending or receiving a document commonly referred to as a facsimile or "fax," except when performed during the course of providing professional or advertising services.

(b) The sales price of communications services does not include charges for any of the following:

1. Any excise tax, sales tax, or similar tax levied by the United States or any state or local government on the purchase, sale, use, or consumption of any communications service, including, but not limited to, any tax imposed under this chapter or chapter 203 which is permitted or required to be added to the sales price of such service, if the tax is stated separately.

2. Any fee or assessment levied by the United States or any state or local government, including, but not limited to, regulatory fees and emergency telephone surcharges, which is required to be added to the price of such service if the fee or assessment is separately stated.

3. *Communications services* ~~Local telephone service~~ paid for by inserting coins into coin-operated communications devices available to the public.

4. The sale or recharge of a prepaid calling arrangement.

5. The provision of air-to-ground communications services, defined as a radio service provided to purchasers while on board an aircraft.

6. A dealer's internal use of communications services in connection with its business of providing communications services.

7. Charges for property or other services that are not part of the sale of communications services, if such charges are stated separately from the charges for communications services.

(15) "Service address" means:

(a)~~(b)~~ *Except as otherwise provided in this section* ~~In the case of all other communications services~~, the location of the communications equipment from which communications services originate or at which communications services are received by the customer. If the location of such equipment cannot be determined as part of the billing process, as in the case of ~~mobile communications services, paging systems, maritime systems,~~ third-number and calling-card calls~~,~~ and similar services, the term means the location determined by the dealer based on the customer's telephone number, the customer's mailing address to which bills are sent by the dealer, or another street address provided by the customer. ~~However, such address must be within the licensed service area of the dealer.~~ In the case of a communications service paid through a credit or payment mechanism that does not relate to a service address, such as a bank, travel, debit, or credit card, the service address is the address of the central office, as determined by the area code and the first three digits of the seven-digit originating telephone number.

(b)~~(a)~~ In the case of cable services and direct-to-home satellite services, the location where the customer receives the services in this state.

(c) In the case of mobile communications services, the customer's place of primary use.

(16) "Substitute communications system" means any telephone system, or other system capable of providing communications services, which a person purchases, installs, rents, or leases for his or her own use to provide himself or herself with services used as a substitute for *any switched service or dedicated facility by which* ~~communications services provided by~~ a dealer of communications services *provides a communication path*.

(18) "Private communications service" means a communications service that entitles the subscriber or user to exclusive or priority use of a communications channel or group of channels between or among channel termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services which are provided in connection with the use of such channel or channels.

(19)(a) "Customer" means:

1. The person or entity that contracts with the home service provider for mobile communications services; or

2. If the end user of mobile communications services is not the contracting party, the end user of the mobile communications service. This subparagraph only applies for the purpose of determining the place of primary use.

(b) "Customer" does not include:

1. A reseller of mobile communications services; or

2. A serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

(20) "Enhanced zip code" means a United States postal zip code of 9 or more digits.

(21) "Home service provider" means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile communications services.

(22) "Licensed service area" means the geographic area in which the home service provider is authorized by law or contract to provide mobile communications service to the customer.

(23) "Place of primary use" means the street address representative of where the customer's use of the mobile communications service primarily occurs, which must be:

(a) The residential street address or the primary business street address of the customer; and

(b) Within the licensed service area of the home service provider.

(24)(a) "Reseller" means a provider who purchases communications services from another communications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile communications service.

(b) "Reseller" does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area.

(25) "Serving carrier" means a facilities-based carrier providing mobile communications service to a customer outside a home service provider's or reseller's licensed service area.

Section 3. Effective with respect to bills issued by communications services providers on or after October 1, 2001, subsections (1) and (3) of section 202.12, Florida Statutes, are amended and paragraph (d) is added to subsection (1), and, effective with respect to bills issued by communications services providers after August 1, 2002, paragraph (e) is added to subsection (1), to read:

202.12 Sales of communications services.—The Legislature finds that every person who engages in the business of selling communications services at retail in this state is exercising a taxable privilege. It is the intent of the Legislature that the tax imposed by chapter 203 be administered as provided in this chapter.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction, and the tax is due and payable as follows:

(a) *Except as otherwise provided in this subsection,* at *a* ~~the~~ rate *of 6.8 percent* ~~calculated pursuant to s. 30, chapter 2000-260, Laws of Florida,~~ applied to the sales price of the communications service~~, except for direct-to-home satellite service,~~ which:

1. Originates and terminates in this state, or

2. Originates or terminates in this state and is charged to a service address in this state,

when sold at retail, computed on each taxable sale for the purpose of remitting the tax due. The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed by this paragraph. If no tax is imposed by this paragraph by reason of s. 202.125(1), the tax imposed by chapter 203 shall nevertheless be collected and remitted in the manner and at the time prescribed for tax collections and remittances under this chapter.

(b) At the rate set forth in paragraph (a) on the actual cost of operating a substitute communications system, to be paid in accordance with s. 202.15. This paragraph does not apply to the use by any dealer of his or her own communications system to conduct a business of providing communications services or any communications system operated by a county, a municipality, the state, or any political subdivision of the state. The gross receipts tax imposed by chapter 203 shall be applied to the same costs, and remitted with the tax imposed by this paragraph.

(c) At *the* ~~a~~ rate *of 10.8 percent* ~~to be computed by the Revenue Estimating Conference and approved by the Legislature~~ on the retail sales price of any direct-to-home satellite service received in this state. ~~The rate computed by the Revenue Estimating Conference shall be the sum of:~~

~~1. The rate set forth in paragraph (a); and~~

~~2. The weighted average, based on the aggregate population in the respective taxing jurisdictions, of the rate computed under s. 202.20(2)(a)1. for municipalities and charter counties and the rate computed under such subparagraph for all other counties.~~

The proceeds of the tax imposed under this paragraph shall be accounted for and distributed in accordance with s. 202.18(2). The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed by this paragraph.

(d) At the rate set forth in paragraph (a) on the sales price of private communications services provided within this state. In determining the sales price of private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the states in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this paragraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method. The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed by this paragraph.

(e) At the rate set forth in paragraph (a) applied to the sales price of all mobile communications services deemed to be provided to a customer by a home service provider pursuant to s. 117(a) of the Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, if such customer's service address is located within this state.

(2) A dealer of taxable communications services shall bill, collect, and remit the taxes on communications services imposed pursuant to chapter 203 and this section at a combined rate that is the sum of the rate of tax on communications services prescribed in chapter 203 and the applicable rate of tax prescribed in this section. Each dealer subject to the tax provided in paragraph (1)(b) shall also remit the taxes imposed pursuant to chapter 203 and this section on a combined basis. However, a dealer shall, in reporting each remittance to the department, identify the portion thereof which consists of taxes remitted pursuant to chapter 203. Return forms prescribed by the department shall facilitate such reporting.

(3) Notwithstanding any law to the contrary, the combined amount of taxes imposed under this section and s. 203.01(1)(a)2. shall not exceed $100,000 per calendar year on charges to any person for interstate communications services that originate outside this state and terminate within this state. This subsection applies only to holders of a direct-pay permit issued under this subsection. A refund may not be given for taxes paid before receiving a direct-pay permit. Upon application, the department may issue *one* ~~a~~ direct-pay permit to the purchaser of communications services authorizing such purchaser to pay *the Florida communications services* tax on such services directly to the department if the majority of such services used by such person are for communications originating outside of this state and terminating in this state. *Only one direct-pay permit shall be issued to a person. Such direct-pay permit shall identify the taxes and service addresses to which it applies.* Any dealer of communications services furnishing communications services to the holder of a valid direct-pay permit is relieved of the obligation to collect and remit the taxes imposed under this section and s. 203.01(1)(a)2. on such services. Tax payments and returns pursuant to a direct-pay permit shall be monthly. As used in this subsection, "person" means a single legal entity and does not mean a group or combination of affiliated entities or entities controlled by one person or group of persons.

Section 4. Effective January 1, 2004, paragraph (d) of subsection (1) of section 202.12, Florida Statutes, as created by this act, is amended to read:

202.12 Sales of communications services.—The Legislature finds that every person who engages in the business of selling communications services at retail in this state is exercising a taxable privilege. It is the intent of the Legislature that the tax imposed by chapter 203 be administered as provided in this chapter.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction, and the tax is due and payable as follows:

(d) At the rate set forth in paragraph (a) on the sales price of private communications services provided within this state*, which shall be determined in accordance with the following provisions:*~~.~~

1. Any charge with respect to a channel termination point located within this state;

2. Any charge for the use of a channel between two channel termination points located in this state; and

3. Where channel termination points are located both within and outside of this state:

a. If any segment between two such channel termination points is separately billed, 50 percent of such charge; and

b. If any segment of the circuit is not separately billed, an amount equal to the total charge for such circuit multiplied by a fraction, the numerator of which is the number of channel termination points within this state and the denominator of which is the total number of channel termination points of the circuit. ~~In determining the sales price of private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the states in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this paragraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method.~~

The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed by this paragraph.

Section 5. Effective with respect to bills issued by communications services providers after August 1, 2002, section 202.155, Florida Statutes, is created to read:

202.155 Special rules for mobile communications services.—

(1) A home service provider shall be responsible for obtaining and maintaining the customer's place of primary use. Subject to subsections (2) and (3), if the home service provider's reliance on information provided by its customer is in good faith:

(a) The home service provider shall be entitled to rely on the applicable residential or business street address supplied by such customer.

(b) The home service provider shall be held harmless from liability for any additional taxes imposed by or pursuant to this chapter or chapter 203 which are based on a different determination of such customer's place of primary use.

(2) Except as provided in subsection (3), a home service provider shall be allowed to treat the address used for tax purposes for any customer under a service contract in effect on August 1, 2002, as that customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement.

(3)(a) The department shall provide notice to the customer of its intent to redetermine the customer's place of primary use. If a final order is entered ruling that the address used by a home service provider as a customer's place of primary use does not meet the definition of "place of primary use" provided by s. 202.11, the department shall notify the home service provider of the proper address to be used as such customer's place of primary use. The home service provider shall begin using the correct address within 120 days.

(b) The department shall provide notice to the home service provider of its intent to redetermine the assignment of a taxing jurisdiction by a home service provider under s. 202.22. If a final order is entered ruling that the jurisdiction assigned by the home service provider is incorrect, the department shall notify the home service provider of the proper jurisdictional assignment. The home service provider shall begin using the correct jurisdictional assignment within 120 days.

(4)(a) If a mobile communications service is not subject to the taxes administered pursuant to this chapter, and if the sales price of such service is aggregated with and not separately stated from the sales price of services subject to tax, then the nontaxable mobile communications service shall be treated as being subject to tax unless the home service provider can reasonably identify the sales price of the service not subject to tax from its books and records kept in the regular course of business.

(b) If a mobile communications service is not subject to the taxes administered pursuant to this chapter, a customer may not rely upon the nontaxability of such service unless the customer's home service provider separately states the sales price of such nontaxable services or the home service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the home service provider's books and records that are kept in the regular course of business that reasonably identifies the sales price of such nontaxable service.

Section 6. Paragraph (a) of subsection (1) and subsection (3) of section 202.16, Florida Statutes, are amended to read:

202.16 Payment.—The taxes imposed or administered under this chapter and chapter 203 shall be collected from all dealers of taxable communications services on the sale at retail in this state of communications services taxable under this chapter and chapter 203. The full amount of the taxes on a credit sale, installment sale, or sale made on any kind of deferred payment plan is due at the moment of the transaction in the same manner as a cash sale.

(1)(a) Except as otherwise provided in ss. 202.12(1)(b) and 202.15, the taxes collected under this chapter and chapter 203~~, including any penalties or interest attributable to the nonpayment of such taxes or for noncompliance with this chapter or chapter 203,~~ shall be paid by the purchaser of the communications service and shall be collected from such person by the dealer of communications services.

(3) Notwithstanding the rate of tax on the sale of communications services imposed pursuant to this chapter and chapter 203, the department shall *make available in an electronic format or otherwise* ~~prescribe by rule~~ the tax amounts and brackets applicable to each taxable sale such that the tax collected results in a tax rate no less than the tax rate imposed pursuant to this chapter and chapter 203.

Section 7. Subsections (1), (2), (4), and (6) of section 202.17, Florida Statutes, are amended to read:

202.17 Registration.—

(1) Each person seeking to engage in business as a dealer of communications services must file with the department an application for a certificate of registration. *Registration under this section does not constitute registration with a municipality or county for the purpose of placing and maintaining communications facilities in municipal or county rights-of-way, as described in s. 337.401.*

(2) A person may not engage in the business of providing communications services without first obtaining a certificate of registration. The failure or refusal to submit an application by any person required to register, as required by this section, is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who fails or refuses to register shall pay an initial registration fee of $100 ~~in lieu of the $5 registration fee prescribed under subsection (4)~~. However, this fee ~~increase~~ may be waived by the department if the failure is due to reasonable cause.

(4) Each application required by paragraph (3)(a) must ~~be accompanied by a registration fee of $5, to be deposited in the General Revenue Fund, and must~~ set forth:

(a) The name under which the person will transact business within this state.

(b) The street address of his or her principal office or place of business within this state and of the location where records are available for inspection.

(c) The name and complete residence address of the owner or the names and residence addresses of the partners, if the applicant is a partnership, or of the principal officers, if the applicant is a corporation or association. If the applicant is a corporation organized under the laws of another state, territory, or country, he or she must also file with the application a certified copy of the certificate or license issued by the Department of State showing that the corporation is authorized to transact business in this state.

(d) Any other data required by the department.

(6) In addition to the certificate of registration, the department shall provide to each newly registered dealer an *initial* ~~annual~~ resale certificate that is valid for the *remainder of the period of issuance* ~~remaining portion of the year~~. The department shall provide to each active dealer*, except persons registered pursuant to s. 202.15,* an annual resale certificate. As used in this section, "active dealer" means a person who is registered with the department and who is required to file a return at least once during each applicable reporting period.

Section 8. Subsection (2) and paragraphs (a) and (c) of subsection (3) of section 202.18, Florida Statutes, are amended to read:

202.18 Allocation and disposition of tax proceeds.—The proceeds of the communications services taxes remitted under this chapter shall be treated as follows:

(2) The proceeds of the taxes remitted under s. 202.12(1)(c) shall be divided as follows:

(a) The portion of such proceeds which constitutes gross receipts taxes, imposed at the rate prescribed in chapter 203, shall be deposited as provided by law and in accordance with s. 9, Art. XII of the State Constitution.

(b) *Sixty-three percent* ~~The portion~~ of *the remainder* ~~such proceeds which is derived from the rate component specified in s. 202.12(1)(c)1.~~ shall be allocated to the state and distributed pursuant to s. 212.20(6)*, except that the proceeds allocated pursuant to s. 212.20(6)(d)3. shall be prorated to the participating counties in the same proportion as that month's collection of the taxes and fees imposed pursuant to chapter 212 and paragraph (1)(b).*

(c)*1. During each calendar year, the remaining portion of such proceeds shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and shall be allocated in the same proportion as the allocation of total receipts of the half-cent sales tax under s. 218.61 and the emergency distribution under s. 218.65 in the prior state fiscal year. However, during calendar year 2001, state fiscal year 2000-2001 proportions shall be used.*

2. The proportion of the proceeds allocated based on the emergency distribution under s. 218.65 shall be distributed pursuant to s. 218.65.

3. In each calendar year, the proportion of the proceeds allocated based on the half-cent sales tax under s. 218.61 shall be allocated to each county in the same proportion as the county's percentage of total sales tax allocation for the prior state fiscal year and distributed pursuant to s. 218.62, except that for calendar year 2001, state fiscal year 2000-2001 proportions shall be used. ~~The remaining portion of such proceeds shall be allocated to the municipalities and counties in proportion to the allocation of receipts from the half-cent sales tax under s. 218.61 and the emergency distribution of such tax under s. 218.65.~~

4. The department shall distribute the appropriate amount to each municipality and county each month at the same time that local communications services taxes are distributed pursuant to subsection (3).

(3)(a) Notwithstanding any law to the contrary, the proceeds of each local communications services tax levied by a municipality or county pursuant to s. 202.19*(1) or s. 202.20(1)*, less the department's costs of administration, shall be transferred to the Local Communications Services Tax Clearing Trust Fund and held there to be distributed to such municipality or county. However, the proceeds of any communications services tax imposed pursuant to s. 202.19(5) shall be deposited and disbursed in accordance with ss. 212.054 and 212.055. For purposes of this section, the proceeds of any tax levied by a municipality, county, or school board under s. 202.19*(1) or s. 202.20(1)* are all funds collected and received by the department pursuant to a specific levy authorized by such *sections* ~~section~~, including any interest and penalties attributable to the tax levy.

(c)1. Except as otherwise provided in this paragraph, proceeds of the taxes levied pursuant to s. 202.19, less amounts deducted for costs of administration in accordance with paragraph (b), shall be distributed monthly to the appropriate jurisdictions. The proceeds of taxes imposed pursuant to s. 202.19(5) shall be distributed in the same manner as discretionary surtaxes are distributed, in accordance with ss. 212.054 and 212.055.

2. The department shall make any adjustments to the distributions pursuant to this paragraph which are necessary to reflect the proper amounts due to individual jurisdictions. *In the event that the department adjusts amounts due to reflect a correction in the situsing of a customer, such adjustment shall be limited to the amount of tax actually collected from such customer by the dealer of communication services.*

Section 9. Effective with respect to communications services reflected on bills dated on or after October 1, 2001, section 202.19, Florida Statutes, is amended to read:

202.19 Authorization to impose local communications services tax.—

(1) The governing authority of each county and municipality may, by ordinance, levy a discretionary communications services tax.

(2)*(a) Charter counties and municipalities may levy the tax authorized by subsection (1) at a rate of up to 5.1 percent for municipalities and charter counties that have not chosen to levy permit fees, and at a rate of up to 4.98 percent for municipalities and charter counties that have chosen to levy permit fees.*

(b) Noncharter counties may levy the tax authorized by subsection (1) at a rate of up to 1.6 percent.

(c) The maximum rates authorized by paragraphs (a) and (b) do not include the add-ons of up to 0.12 percent for municipalities and charter counties or of up to 0.24 percent for noncharter counties authorized pursuant to s. 337.401, nor do they supersede conversion or emergency rates authorized by s. 202.20 which are in excess of these maximum rates. ~~The rate of such tax shall be as follows:~~

~~(a) For municipalities and charter counties, the rate shall be up to the maximum rate determined for municipalities and charter counties in accordance with s. 202.20(2).~~

~~(b) For all other counties, the rate shall be up to the maximum rate determined for other counties in accordance with s. 202.20(2).~~

~~The rate imposed by any municipality or county shall be expressed in increments of one-tenth of a percent and rounded up to the nearest one-tenth percent.~~

(3)~~(a) The maximum rates established under subsection (2) reflect the rates for communications services taxes imposed under this chapter which are necessary for each municipality or county to raise the maximum amount of revenues which it was authorized to raise prior to July 1, 2000, through the imposition of taxes, charges, and fees, but that it is prohibited from imposing under s. 202.24, other than the discretionary surtax authorized under s. 212.055. It is the legislative intent that the maximum rates for charter counties be calculated by treating them as having had the same authority as municipalities to impose franchise fees on recurring local telecommunication service revenues prior to July 1, 2000. However, the Legislature recognizes that the authority of charter counties to impose such fees is in dispute, and the treatment provided in this section is not an expression of legislative intent that charter counties actually do or do not possess such authority.~~

(a)~~(b)~~ The tax authorized under this section includes any fee or other consideration to which the municipality or county is otherwise entitled for granting permission to dealers of communications services*, including, but not limited to,* ~~or~~ providers of cable television services, as authorized in 47 U.S.C. s. 542, to use or occupy its roads or rights-of-way for the placement, construction, and maintenance of poles, wires, and other fixtures used in the provision of communications services.

(b)~~(c)~~ This subsection does not supersede or impair the right, if any, of a municipality or county to require the payment of consideration or to require the payment of regulatory fees or assessments by persons using or occupying its roads or rights-of-way in a capacity other than that of a dealer of communications services.

(4)(a)*1.* Except as otherwise provided in this section, the tax imposed by any municipality shall be on all communications services subject to tax under s. 202.12 which:

a.~~1.~~ Originate or terminate in this state; and

b.~~2.~~ Are charged to a service address in the municipality.

2. With respect to private communications services, the tax shall be on the sales price of such services provided within the municipality. In determining the sales price of private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the state and local taxing jurisdictions in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this subparagraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method.

(b)*1. Except as otherwise provided in this section,* the tax imposed by any county under subsection (1) shall be on all communications services subject to tax under s. 202.12 which:

a.~~1.~~ Originate or terminate in this state; and

b.~~2.~~ Are charged to a service address in the unincorporated area of the county.

2. With respect to private communications services, the tax shall be on the sales price of such services provided within the unincorporated

area of the county. In determining the amount of charges for private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the state and local taxing jurisdictions in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this subparagraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method.

(5) In addition to the communications services taxes authorized by subsection (1), a discretionary sales surtax that a county or school board has levied under s. 212.055 is imposed as a local communications services tax under this section, and the rate shall be determined in accordance with s. 202.20*(3)*~~(5)~~.

(a) Except as otherwise provided in this subsection, each such tax rate shall be applied, in addition to the other tax rates applied under this chapter, to communications services subject to tax under s. 202.12 which:

1.~~(a)~~ Originate or terminate in this state; and

2.~~(b)~~ Are charged to a service address in the county.

(b) With respect to private communications services, the tax shall be on the sales price of such services provided within the county. In determining the sales price of private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the state and local taxing jurisdictions in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this paragraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method.

(6) Notwithstanding any other provision of this section, a tax imposed under this section does not apply to any direct-to-home satellite service.

(7) Any tax imposed by a municipality, school board, or county under this section also applies to the actual cost of operating a substitute communications system, to be paid in accordance with s. 202.15. This subsection does not apply to the use by any provider of its own communications system to conduct a business of providing communications services or to the use of any communications system operated by a county, a municipality, the state, or any political subdivision of the state.

(8) Notwithstanding any law to the contrary, a tax imposed under this section shall not exceed $25,000 per calendar year on communications services charges billed to a service address located in a municipality or county imposing a local communications services tax for interstate communications services that originate outside this state and terminate within this state. This subsection applies only to holders of a direct-pay permit issued under *s. 202.12(3)* ~~this subsection~~. *A person who does not qualify for a direct-pay permit under s. 202.12(3) does not qualify for a direct-pay permit under this subsection.* A refund may not be given for taxes paid before receiving a direct-pay permit. Upon application, the department *shall identify the service addresses qualifying for the limitation provided by this subsection on the direct-pay permit issued under s. 202.12(3) and authorize* ~~may issue a direct-pay permit to the purchaser of communications services authorizing~~ such purchaser to pay *the local communications* tax on such *interstate* services directly to the department if *the application indicates that* the majority of such services used by such person *and billed to a service address* are for communications originating outside of this state and terminating in this state. *The direct-pay permit shall also indicate the counties or municipalities to which it applies.* Any dealer of communications services furnishing communications services to the holder of a valid direct-pay permit is relieved of the obligation to collect and remit the tax on such services. Tax payments and returns pursuant to a direct-pay permit shall be monthly. As used in this subsection, "person" means a single legal entity and does not mean a group or combination of affiliated entities or entities controlled by one person or group of persons.

(9) ~~A municipality or county that imposes a tax under subsection (1) may use~~ The revenues raised by *any* ~~such~~ tax *imposed under subsection (1) or s. 202.20(1) may be used by a municipality or county* for any public purpose, including, but not limited to, pledging such revenues for the repayment of current or future bonded indebtedness. Revenues raised by a tax imposed under subsection (5) shall be used for the same purposes as the underlying discretionary sales surtax imposed by the county or school board under s. 212.055.

(10) Notwithstanding any provision of law to the contrary, the exemption set forth in s. 202.125(1) shall not apply to a tax imposed by a municipality, school board, or county pursuant to subsection (4) or subsection (5).

(11) To the extent that a provider of communications services is required to pay *to a local taxing jurisdiction* a tax, charge, or other fee under any franchise agreement or ordinance with respect to the services or revenues that are also subject to the tax imposed by this section, such provider is entitled to a credit against the amount payable to the state pursuant to this section in the amount of such tax, charge, or fee with respect to such services or revenues. *The amount of such credit shall be deducted from the amount that such local taxing jurisdiction is entitled to receive under s. 202.18(3).*

Section 10. Effective January 1, 2004, subsections (4) and (5) of section 202.19, Florida Statutes, as amended by this act, are amended to read:

202.19 Authorization to impose local communications services tax.—

(4)(a)1. Except as otherwise provided in this section, the tax imposed by any municipality shall be on all communications services subject to tax under s. 202.12 which:

a. Originate or terminate in this state; and

b. Are charged to a service address in the municipality.

2. With respect to private communications services, the tax shall be on the sales price of such services provided within the municipality*, which shall be determined in accordance with the following provisions:*~~.~~

a. Any charge with respect to a channel termination point located within such municipality;

b. Any charge for the use of a channel between two channel termination points located in such municipality; and

c. Where channel termination points are located both within and outside of the municipality:

(I) If any segment between two such channel termination points is separately billed, 50 percent of such charge; and

(II) If any segment of the circuit is not separately billed, an amount equal to the total charge for such circuit multiplied by a fraction, the numerator of which is the number of channel termination points within such municipality and the denominator of which is the total number of channel termination points of the circuit. ~~In determining the sales price of private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the state and local taxing jurisdictions in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this subparagraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method.~~

(b)1. Except as otherwise provided in this section, the tax imposed by any county under subsection (1) shall be on all communications services subject to tax under s. 202.12 which:

a. Originate or terminate in this state; and

b. Are charged to a service address in the unincorporated area of the county.

2. With respect to private communications services, the tax shall be on the sales price of such services provided within the unincorporated area of the county*, which shall be determined in accordance with the following provisions:*~~.~~

a. Any charge with respect to a channel termination point located within the unincorporated area of such county;

b. Any charge for the use of a channel between two channel termination points located in the unincorporated area of such county; and

c. Where channel termination points are located both within and outside of the unincorporated area of such county:

(I) If any segment between two such channel termination points is separately billed, 50 percent of such charge; and

(II) If any segment of the circuit is not separately billed, an amount equal to the total charge for such circuit multiplied by a fraction, the numerator of which is the number of channel termination points within the unincorporated area of such county and the denominator of which is the total number of channel termination points of the circuit. ~~In determining the amount of charges for private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the state and local taxing jurisdictions in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this subparagraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method.~~

(5) In addition to the communications services taxes authorized by subsection (1), a discretionary sales surtax that a county or school board has levied under s. 212.055 is imposed as a local communications services tax under this section, and the rate shall be determined in accordance with s. 202.20(3).

(a) Except as otherwise provided in this subsection, each such tax rate shall be applied, in addition to the other tax rates applied under this chapter, to communications services subject to tax under s. 202.12 which:

1. Originate or terminate in this state; and

2. Are charged to a service address in the county.

(b) With respect to private communications services, the tax shall be on the sales price of such services provided within the county*, which shall be determined in accordance with the following provisions:*~~.~~

1. Any charge with respect to a channel termination point located within such county;

2. Any charge for the use of a channel between two channel termination points located in such county; and

3. Where channel termination points are located both within and outside of such county:

a. If any segment between two such channel termination points is separately billed, 50 percent of such charge; and

b. If any segment of the circuit is not separately billed, an amount equal to the total charge for such circuit multiplied by a fraction, the numerator of which is the number of channel termination points within such county and the denominator of which is the total number of channel termination points of the circuit. ~~In determining the sales price of private communications services subject to tax, the communications service provider shall be entitled to use any method that reasonably allocates the total charges among the state and local taxing jurisdictions in which channel termination points are located. An allocation method is deemed to be reasonable for purposes of this paragraph if the communications service provider regularly used such method for Florida tax purposes prior to December 31, 2000. If a communications service provider uses a reasonable allocation method, such provider shall be held harmless from any liability for additional tax, interest, or penalty based on a different allocation method.~~

Section 11. Effective with respect to bills issued by communications services providers after August 1, 2002, subsection (12) is added to section 202.19, Florida Statutes, to read:

202.19 Authorization to impose local communications services tax.—

(12) Notwithstanding any other provision of this section, with respect to mobile communications services, the rate of a local communications services tax levied under this section shall be applied to the sales price of all mobile communications services deemed to be provided to a customer by a home service provider pursuant to s. 117(a) of the Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, if such customer's service address is located within the municipality levying the tax or within the unincorporated area of the county levying the tax, as the case may be.

Section 12. Effective with respect to communications services reflected on bills dated on or after October 1, 2001, section 202.20, Florida Statutes, is amended to read:

202.20 Local communications services tax *conversion* rates.—

(1)*(a) For the period of October 1, 2001, through September 30, 2002, there are hereby levied the following local communications services tax conversion rates on taxable sales as authorized by s. 202.19. The conversion rates take effect without any action required by the local government. The conversion rates for local governments that have not chosen to levy permit fees do not include the add-ons of up to 0.12 percent for municipalities and charter counties or of up to 0.24 percent for noncharter counties authorized pursuant to s. 337.401.*

Jurisdiction	*County*	*Conversion rates for local governments that have NOT chosen to levy permit fees*	*Conversion rates for local governments that have chosen to levy permit fees*
ALACHUA	*Alachua*	*5.00%*	*4.88%*
Alachua	*Alachua*	*4.10%*	*3.98%*
Archer	*Alachua*	*3.30%*	*3.18%*
Gainesville	*Alachua*	*5.30%*	*5.18%*
Hawthorne	*Alachua*	*2.00%*	*1.88%*
High Springs	*Alachua*	*2.80%*	*2.68%*
LaCrosse	*Alachua*	*3.60%*	*3.48%*
Micanopy	*Alachua*	*2.70%*	*2.58%*
Newberry	*Alachua*	*4.60%*	*4.48%*
Waldo	*Alachua*	*1.40%*	*1.28%*
BAKER	*Baker*	*0.50%*	*0.50%*
Glen Saint Mary	*Baker*	*5.70%*	*5.58%*
Macclenny	*Baker*	*6.40%*	*6.28%*
BAY	*Bay*	*0.00%*	*0.00%*
Callaway	*Bay*	*5.50%*	*5.38%*
Cedar Grove	*Bay*	*5.20%*	*5.08%*
Lynn Haven	*Bay*	*5.30%*	*5.18%*
Mexico Beach	*Bay*	*3.20%*	*3.08%*
Panama City	*Bay*	*5.30%*	*5.18%*
Panama City Beach	*Bay*	*3.80%*	*3.68%*
Parker	*Bay*	*5.10%*	*4.98%*

Jurisdiction	County	Conversion rates for local governments that have NOT chosen to levy permit fees	Conversion rates for local governments that have chosen to levy permit fees
Springfield	Bay	4.40%	4.28%
BRADFORD	Bradford	0.50%	0.50%
Brooker	Bradford	3.20%	3.08%
Hampton	Bradford	2.40%	2.28%
Lawtey	Bradford	1.20%	1.08%
Starke	Bradford	3.80%	3.08%
BREVARD	Brevard	1.40%	1.18%
Cape Canaveral	Brevard	4.90%	4.78%
Cocoa	Brevard	4.30%	4.18%
Cocoa Beach	Brevard	5.50%	5.38%
Indialantic	Brevard	6.70%	6.58%
Indian Harbour Beach	Brevard	4.30%	4.18%
Malabar	Brevard	5.30%	5.18%
Melbourne	Brevard	5.40%	5.28%
Melbourne Beach	Brevard	5.20%	5.08%
Melbourne Village	Brevard	4.50%	4.38%
Palm Bay	Brevard	5.40%	5.28%
Palm Shores	Brevard	5.20%	5.08%
Rockledge	Brevard	4.40%	4.28%
Satellite Beach	Brevard	1.80%	1.68%
Titusville	Brevard	5.70%	5.58%
West Melbourne	Brevard	5.80%	5.68%
BROWARD	Broward	5.20%	5.08%
Coconut Creek	Broward	5.10%	4.98%
Cooper City	Broward	5.20%	5.08%
Coral Springs	Broward	5.40%	5.28%
Dania	Broward	5.60%	5.48%
Davie	Broward	5.60%	5.48%
Deerfield Beach	Broward	1.50%	1.38%
Ft. Lauderdale	Broward	5.50%	5.38%
Hallandale	Broward	5.20%	5.08%
Hillsboro Beach	Broward	1.30%	1.18%
Hollywood	Broward	5.20%	5.08%
Lauderdale-by-the-Sea	Broward	5.30%	5.18%
Lauderdale Lakes	Broward	5.60%	5.48%
Lauderhill	Broward	5.50%	5.38%
Lazy Lake Village	Broward	0.60%	0.48%
Lighthouse Point	Broward	6.60%	6.48%
Margate	Broward	5.60%	5.48%
Miramar	Broward	5.40%	5.28%
North Lauderdale	Broward	4.10%	3.98%
Oakland Park	Broward	5.70%	5.58%
Parkland	Broward	1.40%	1.28%
Pembroke Park	Broward	5.00%	4.88%
Pembroke Pines	Broward	5.70%	5.58%
Plantation	Broward	5.00%	4.88%
Pompano Beach	Broward	4.90%	4.78%
Sea Ranch Lakes	Broward	1.60%	1.48%
Southwest Ranches	Broward	4.90%	4.78%
Sunrise	Broward	5.00%	4.88%
Tamarac	Broward	2.50%	1.78%
Weston	Broward	5.50%	5.38%
Wilton Manors	Broward	5.90%	5.78%
CALHOUN	Calhoun	0.00%	0.00%
Altha	Calhoun	4.30%	4.18%
Blountstown	Calhoun	1.40%	1.28%
CHARLOTTE	Charlotte	2.00%	1.88%
Punta Gorda	Charlotte	5.40%	5.28%
CITRUS	Citrus	2.10%	2.10%
Crystal River	Citrus	5.60%	5.48%
Inverness	Citrus	5.60%	5.48%
CLAY	Clay	6.30%	6.18%
Green Cove Springs	Clay	4.00%	3.88%
Keystone Heights	Clay	2.30%	2.18%
Orange Park	Clay	0.80%	0.68%
Penney Farms	Clay	2.00%	1.88%
COLLIER	Collier	2.30%	2.30%
Everglades	Collier	4.20%	3.88%
Marco Island	Collier	2.50%	1.98%
Naples	Collier	3.60%	3.48%
COLUMBIA	Columbia	1.40%	1.40%
Ft. White	Columbia	0.70%	0.58%
Lake City	Columbia	4.70%	4.58%
DESOTO	DeSoto	2.20%	2.20%
Arcadia	DeSoto	4.00%	3.88%
DIXIE	Dixie	0.10%	0.10%
Cross City	Dixie	2.70%	2.58%
Horseshoe Beach	Dixie	6.70%	6.58%
DUVAL/Jax	Duval	4.80%	4.68%
Atlantic Beach	Duval	6.40%	6.28%
Baldwin	Duval	6.60%	6.48%
Jacksonville Beach	Duval	5.00%	4.78%
Neptune Beach	Duval	4.30%	4.18%
ESCAMBIA	Escambia	1.70%	1.70%
Century	Escambia	2.30%	2.18%
Pensacola	Escambia	5.50%	5.38%
FLAGLER	Flagler	0.70%	0.70%
Beverly Beach	Flagler	2.00%	1.88%
Bunnell	Flagler	2.70%	2.58%
Flagler Beach	Flagler & Volusia	5.40%	5.28%
Marineland	Flagler & St. Johns	0.40%	0.28%
Palm Coast	Flagler	1.40%	1.28%
FRANKLIN	Franklin	0.90%	0.90%
Apalachicola	Franklin	3.90%	3.78%
Carrabelle	Franklin	6.20%	6.08%
GADSDEN	Gadsden	0.30%	0.30%
Chattahoochee	Gadsden	1.10%	0.98%
Greensboro	Gadsden	0.00%	0.00%
Gretna	Gadsden	4.20%	4.08%
Havana	Gadsden	0.80%	0.68%
Midway	Gadsden	4.00%	3.88%
Quincy	Gadsden	1.20%	1.08%
GILCHRIST	Gilchrist	0.00%	0.00%
Bell	Gilchrist	4.80%	4.68%
Fanning Springs	Gilchrist & Levy	6.00%	5.88%

Jurisdiction	County	Conversion rates for local governments that have NOT chosen to levy permit fees	Conversion rates for local governments that have chosen to levy permit fees
Trenton	Gilchrist	4.20%	4.08%
GLADES	Glades	0.50%	0.50%
Moore Haven	Glades	1.30%	1.18%
GULF	Gulf	0.40%	0.40%
Port St. Joe	Gulf	3.90%	3.78%
Wewahitchka	Gulf	3.90%	3.78%
HAMILTON	Hamilton	0.30%	0.30%
Jasper	Hamilton	5.20%	4.98%
Jennings	Hamilton	1.60%	1.48%
White Springs	Hamilton	5.40%	5.28%
HARDEE	Hardee	1.20%	1.20%
Bowling Green	Hardee	3.40%	3.28%
Wauchula	Hardee	5.40%	5.28%
Zolfo Springs	Hardee	2.40%	2.28%
HENDRY	Hendry	0.70%	0.70%
Clewiston	Hendry	3.50%	3.38%
La Belle	Hendry	4.40%	4.28%
HERNANDO	Hernando	1.50%	1.50%
Brooksville	Hernando	1.00%	0.88%
Weeki Wachee	Hernando	0.10%	0.00%
HIGHLANDS	Highlands	1.20%	1.20%
Avon Park	Highlands	4.70%	4.58%
Lake Placid	Highlands	1.00%	0.88%
Sebring	Highlands	1.20%	0.88%
HILLSBOROUGH	Hillsborough	2.20%	2.08%
Plant City	Hillsborough	6.10%	5.98%
Tampa	Hillsborough	5.50%	5.28%
Temple Terrace	Hillsborough	5.80%	5.68%
HOLMES	Holmes	0.20%	0.20%
Bonifay	Holmes	6.20%	6.08%
Esto	Holmes	0.90%	0.78%
Noma	Holmes	0.20%	0.08%
Ponce de Leon	Holmes	2.90%	2.78%
Westville	Holmes	1.00%	0.88%
INDIAN RIVER	Indian River	1.50%	1.50%
Fellsmere	Indian River	4.40%	4.28%
Indian River Shores	Indian River	3.00%	2.88%
Orchid	Indian River	2.30%	2.18%
Sebastian	Indian River	3.50%	3.38%
Vero Beach	Indian River	5.40%	5.28%
JACKSON	Jackson	0.20%	0.20%
Alford	Jackson	0.30%	0.18%
Bascom	Jackson	1.30%	1.18%
Campbellton	Jackson	0.30%	0.18%
Cottondale	Jackson	4.70%	4.58%
Graceville	Jackson	4.80%	4.68%
Grand Ridge	Jackson	0.80%	0.68%
Greenwood	Jackson	0.40%	0.28%
Jacob City	Jackson	0.00%	0.00%
Malone	Jackson	0.50%	0.38%
Marianna	Jackson	4.30%	4.18%
Sneads	Jackson	3.60%	3.48%
JEFFERSON	Jefferson	1.00%	1.00%
Monticello	Jefferson	4.90%	4.78%
LAFAYETTE	Lafayette	0.00%	0.00%
Mayo	Lafayette	2.10%	1.98%
LAKE	Lake	1.90%	1.90%
Astatula	Lake	4.80%	4.68%
Clermont	Lake	5.00%	4.88%
Eustis	Lake	5.50%	5.38%
Fruitland Park	Lake	5.10%	4.98%
Groveland	Lake	5.30%	5.18%
Howey-in-the-Hills	Lake	3.60%	3.48%
Lady Lake	Lake	1.50%	1.38%
Leesburg	Lake	1.40%	1.28%
Mascotte	Lake	4.20%	4.08%
Minneola	Lake	3.50%	3.38%
Montverde	Lake	1.90%	1.78%
Mount Dora	Lake	1.70%	1.28%
Tavares	Lake	5.60%	5.48%
Umatilla	Lake	3.40%	3.28%
LEE	Lee	2.20%	2.08%
Bonita Springs	Lee	1.90%	1.78%
Cape Coral	Lee	1.60%	1.48%
Ft. Myers	Lee	5.10%	4.98%
Ft. Myers Beach	Lee	2.30%	2.18%
Sanibel	Lee	2.50%	2.38%
LEON	Leon	1.10%	1.10%
Tallahassee	Leon	4.70%	4.58%
LEVY	Levy	0.00%	0.00%
Bronson	Levy	2.80%	2.68%
Cedar Key	Levy	2.30%	2.18%
Chiefland	Levy	2.90%	2.78%
Inglis	Levy	3.80%	3.68%
Otter Creek	Levy	0.70%	0.58%
Williston	Levy	1.80%	1.68%
Yankeetown	Levy	6.00%	5.88%
LIBERTY	Liberty	0.60%	0.60%
Bristol	Liberty	3.10%	2.98%
MADISON	Madison	0.40%	0.40%
Greenville	Madison	2.30%	2.18%
Lee	Madison	0.50%	0.38%
Madison	Madison	5.30%	4.88%
MANATEE	Manatee	0.80%	0.80%
Anna Maria	Manatee	1.50%	1.38%
Bradenton	Manatee	6.10%	5.98%
Bradenton Beach	Manatee	6.00%	5.88%
Holmes Beach	Manatee	3.80%	3.68%
Palmetto	Manatee	5.80%	5.68%
Longboat Key	Manatee & Sarasota	3.50%	3.38%
MARION	Marion	0.00%	0.00%
Belleview	Marion	1.00%	0.88%
Dunnellon	Marion	4.80%	4.68%
McIntosh	Marion	1.40%	1.28%
Ocala	Marion	5.20%	5.08%
Reddick	Marion	1.40%	1.28%
MARTIN	Martin	1.50%	1.50%
Jupiter Island	Martin	0.70%	0.58%
Ocean Breeze Park	Martin	2.40%	2.28%
Sewalls Point	Martin	2.40%	2.28%
Stuart	Martin	5.20%	5.08%
MIAMI-DADE	Miami-Dade	5.00%	4.78%
Aventura	Miami-Dade	5.60%	5.48%
Bal Harbour	Miami-Dade	5.40%	5.28%
Bay Harbor Islands	Miami-Dade	5.20%	5.08%
Biscayne Park	Miami-Dade	4.70%	4.58%
Coral Gables	Miami-Dade	4.40%	4.28%
El Portal	Miami-Dade	6.00%	5.88%
Florida City	Miami-Dade	5.80%	5.68%

Jurisdiction	County	Conversion rates for local governments that have NOT chosen to levy permit fees	Conversion rates for local governments that have chosen to levy permit fees
Golden Beach	Miami-Dade	2.10%	1.98%
Hialeah	Miami-Dade	5.40%	5.28%
Hialeah Gardens	Miami-Dade	5.60%	5.48%
Homestead	Miami-Dade	5.70%	5.58%
Indian Creek Village	Miami-Dade	0.80%	0.68%
Islandia	Miami-Dade	0.00%	0.00%
Key Biscayne	Miami-Dade	5.00%	4.88%
Medley	Miami-Dade	6.70%	6.58%
Miami	Miami-Dade	5.10%	4.98%
Miami Beach	Miami-Dade	5.10%	4.98%
Miami Shores	Miami-Dade	6.10%	5.98%
Miami Springs	Miami-Dade	3.20%	3.08%
North Bay	Miami-Dade	5.30%	5.18%
North Miami	Miami-Dade	5.20%	5.08%
North Miami Beach	Miami-Dade	5.40%	5.28%
Opa-Locka	Miami-Dade	4.00%	3.88%
Pinecrest	Miami-Dade	5.90%	5.78%
South Miami	Miami-Dade	5.20%	5.08%
Sunny Isles Beach	Miami-Dade	5.50%	5.38%
Surfside	Miami-Dade	5.20%	5.08%
Sweetwater	Miami-Dade	5.00%	4.88%
Virginia Gardens	Miami-Dade	0.40%	0.28%
West Miami	Miami-Dade	4.80%	4.68%
MONROE	Monroe	1.50%	1.50%
Islamorada	Monroe	0.40%	0.00%
Key Colony Beach	Monroe	2.60%	2.48%
Key West	Monroe	1.60%	1.48%
Layton	Monroe	0.00%	0.00%
Marathon	Monroe	2.10%	1.68%
NASSAU	Nassau	0.80%	0.80%
Callahan	Nassau	4.90%	4.78%
Fernandina Beach	Nassau	5.40%	5.28%
Hilliard	Nassau	3.40%	3.28%
OKALOOSA	Okaloosa	0.70%	0.70%
Cinco Bayou	Okaloosa	5.40%	5.28%
Crestview	Okaloosa	3.70%	3.58%
Destin	Okaloosa	2.10%	1.98%
Ft. Walton Beach	Okaloosa	5.90%	5.78%
Laurel Hill	Okaloosa	3.00%	2.88%
Mary Esther	Okaloosa	5.30%	5.18%
Niceville	Okaloosa	6.00%	5.88%
Shalimar	Okaloosa	5.40%	5.28%
Valparaiso	Okaloosa	4.10%	3.98%
OKEECHOBEE	Okeechobee	0.90%	0.90%
Okeechobee	Okeechobee	4.80%	4.68%
ORANGE	Orange	5.20%	4.98%
Apopka	Orange	6.50%	6.38%
Bay Lake	Orange	0.00%	0.00%
Belle Isle	Orange	1.80%	1.68%
Eatonville	Orange	4.70%	4.58%
Edgewood	Orange	1.00%	0.88%
Lake Buena Vista	Orange	0.00%	0.00%
Maitland	Orange	5.60%	5.38%
Oakland	Orange	5.40%	5.28%
Ocoee	Orange	5.00%	4.68%
Orlando	Orange	4.40%	4.28%
Windermere	Orange	4.70%	4.58%
Winter Garden	Orange	4.70%	4.58%
Winter Park	Orange	6.10%	5.98%
OSCEOLA	Osceola	5.50%	5.28%
Kissimmee	Osceola	4.80%	4.68%
St. Cloud	Osceola	5.50%	5.38%
PALM BEACH	Palm Beach	5.00%	4.88%
Atlantis	Palm Beach	1.20%	1.08%
Belle Glade	Palm Beach	5.40%	5.28%
Boca Raton	Palm Beach	5.70%	5.58%
Boynton Beach	Palm Beach	5.20%	5.08%
Briny Breezes	Palm Beach	3.20%	0.28%
Cloud Lake	Palm Beach	2.40%	2.28%
Delray Beach	Palm Beach	4.70%	4.58%
Glen Ridge	Palm Beach	1.60%	1.48%
Golf Village	Palm Beach	0.60%	0.48%
Golfview	Palm Beach	0.70%	0.58%
Greenacres City	Palm Beach	5.80%	5.68%
Gulf Stream	Palm Beach	1.10%	0.98%
Haverhill	Palm Beach	1.60%	1.28%
Highland Beach	Palm Beach	4.40%	4.28%
Hypoluxo	Palm Beach	6.30%	6.18%
Juno Beach	Palm Beach	5.10%	4.98%
Jupiter	Palm Beach	4.30%	4.18%
Jupiter Inlet Colony	Palm Beach	2.10%	1.98%
Lake Clarke Shores	Palm Beach	1.60%	1.48%
Lake Park	Palm Beach	5.60%	5.48%
Lake Worth	Palm Beach	5.20%	5.08%
Lantana	Palm Beach	5.80%	5.68%
Manalapan	Palm Beach	1.80%	1.68%
Mangonia Park	Palm Beach	5.90%	5.78%
North Palm Beach	Palm Beach	5.50%	5.28%
Ocean Ridge	Palm Beach	1.10%	0.98%
Pahokee	Palm Beach	4.60%	4.48%
Palm Beach	Palm Beach	4.90%	4.78%
Palm Beach Gardens	Palm Beach	1.20%	1.08%
Palm Beach Shores	Palm Beach	5.80%	5.68%
Palm Springs	Palm Beach	5.60%	5.48%
Riviera Beach	Palm Beach	4.80%	4.68%
Royal Palm Beach	Palm Beach	5.30%	5.18%
South Bay	Palm Beach	5.50%	5.38%
South Palm Beach	Palm Beach	6.00%	5.88%
Tequesta Village	Palm Beach	4.40%	4.28%
Wellington	Palm Beach	5.50%	5.38%
West Palm Beach	Palm Beach	5.70%	5.58%
PASCO	Pasco	1.60%	1.60%
Dade City	Pasco	5.30%	5.18%
New Port Richey	Pasco	5.90%	5.78%
Port Richey	Pasco	1.00%	0.88%
Saint Leo	Pasco	1.10%	0.98%
San Antonio	Pasco	0.80%	0.68%
Zephyrhills	Pasco	5.90%	5.78%
PINELLAS	Pinellas	2.00%	1.88%

Jurisdiction	County	Conversion rates for local governments that have NOT chosen to levy permit fees	Conversion rates for local governments that have chosen to levy permit fees
Belleair	Pinellas	1.80%	1.68%
Belleair Beach	Pinellas	6.50%	6.38%
Belleair Bluffs	Pinellas	2.10%	1.98%
Belleair Shore	Pinellas	2.60%	2.48%
Clearwater	Pinellas	5.40%	5.28%
Dunedin	Pinellas	5.60%	5.48%
Gulfport	Pinellas	6.50%	6.38%
Indian Rocks Beach	Pinellas	2.50%	2.38%
Indian Shores	Pinellas	2.80%	2.68%
Kenneth City	Pinellas	1.40%	1.28%
Largo	Pinellas	6.00%	5.88%
Madeira Beach	Pinellas	6.00%	5.88%
North Redington Beach	Pinellas	1.80%	1.68%
Oldsmar	Pinellas	6.10%	5.98%
Pinellas Park	Pinellas	5.90%	5.78%
Redington Beach	Pinellas	5.90%	5.78%
Redington Shores	Pinellas	1.20%	1.08%
Safety Harbor	Pinellas	6.90%	6.38%
St. Pete Beach	Pinellas	6.10%	5.98%
St. Petersburg	Pinellas	6.00%	5.88%
Seminole	Pinellas	5.50%	5.38%
South Pasadena	Pinellas	6.10%	5.98%
Tarpon Springs	Pinellas	6.10%	5.98%
Treasure Island	Pinellas	2.40%	2.28%
POLK	Polk	2.90%	2.78%
Auburndale	Polk	4.60%	4.48%
Bartow	Polk	6.50%	5.68%
Davenport	Polk	3.70%	3.58%
Dundee	Polk	6.00%	5.88%
Eagle Lake	Polk	5.80%	5.68%
Ft. Meade	Polk	5.60%	4.98%
Frostproof	Polk	5.70%	5.58%
Haines City	Polk	5.50%	5.38%
Highland Park	Polk	0.00%	0.00%
Hillcrest Heights	Polk	1.10%	0.98%
Lake Alfred	Polk	4.80%	4.68%
Lake Hamilton	Polk	3.90%	3.78%
Lake Wales	Polk	4.80%	4.68%
Lakeland	Polk	5.60%	5.48%
Mulberry	Polk	3.40%	3.28%
Polk City	Polk	3.00%	2.88%
Winter Haven	Polk	6.70%	6.58%
PUTNAM	Putnam	1.30%	1.30%
Crescent City	Putnam	4.70%	4.58%
Interlachen	Putnam	1.80%	1.68%
Palatka	Putnam	5.40%	5.28%
Pomona Park	Putnam	3.10%	2.98%
Welaka	Putnam	2.70%	2.58%
SANTA ROSA	Santa Rosa	1.70%	1.70%
Gulf Breeze	Santa Rosa	1.10%	0.98%
Jay	Santa Rosa	1.40%	1.28%
Milton	Santa Rosa	6.20%	6.08%
SARASOTA	Sarasota	5.10%	4.98%
North Port	Sarasota	6.10%	5.98%
Sarasota	Sarasota	5.60%	5.48%
Venice	Sarasota	5.40%	5.28%
SEMINOLE	Seminole	3.20%	2.98%
Altamonte Springs	Seminole	5.20%	5.08%
Casselberry	Seminole	5.70%	5.58%
Lake Mary	Seminole	4.40%	4.28%
Longwood	Seminole	5.80%	5.68%
Oviedo	Seminole	4.70%	4.58%
Sanford	Seminole	5.00%	4.88%
Winter Springs	Seminole	6.20%	6.08%
ST. JOHNS	St. Johns	1.30%	1.30%
Hastings	St. Johns	1.60%	1.48%
St. Augustine	St. Johns	4.80%	4.68%
St. Augustine Beach	St. Johns	4.90%	4.78%
ST. LUCIE	St. Lucie	1.20%	1.20%
Ft. Pierce	St. Lucie	4.90%	4.78%
Port St. Lucie	St. Lucie	1.60%	1.48%
St. Lucie Village	St. Lucie	1.80%	1.68%
SUMTER	Sumter	0.80%	0.80%
Bushnell	Sumter	5.40%	5.28%
Center Hill	Sumter	4.70%	4.58%
Coleman	Sumter	4.20%	4.08%
Webster	Sumter	3.30%	3.18%
Wildwood	Sumter	3.90%	3.78%
SUWANNEE	Suwannee	0.50%	0.50%
Branford	Suwannee	4.90%	4.78%
Live Oak	Suwannee	6.00%	5.88%
TAYLOR	Taylor	1.20%	1.20%
Perry	Taylor	5.90%	5.78%
UNION	Union	0.40%	0.40%
Lake Butler	Union	2.50%	2.38%
Raiford	Union	0.00%	0.00%
Worthington Springs	Union	0.00%	0.00%
VOLUSIA	Volusia	4.20%	4.08%
Daytona Beach	Volusia	5.00%	4.88%
Daytona Beach Shores	Volusia	5.50%	5.38%
DeBary	Volusia	4.70%	4.58%
DeLand	Volusia	4.60%	4.48%
Deltona	Volusia	6.60%	6.48%
Edgewater	Volusia	5.20%	5.08%
Holly Hill	Volusia	4.50%	4.38%
Lake Helen	Volusia	2.20%	2.08%
New Smyrna Beach	Volusia	4.40%	4.28%
Oak Hill	Volusia	3.80%	3.68%
Orange City	Volusia	4.90%	4.78%
Ormond Beach	Volusia	5.30%	5.18%
Pierson	Volusia	1.20%	1.08%
Ponce Inlet	Volusia	5.70%	5.58%
Port Orange	Volusia	5.10%	4.98%
South Daytona	Volusia	6.10%	5.98%
WAKULLA	Wakulla	0.90%	0.90%
St. Marks	Wakulla	0.00%	0.00%
Sopchoppy	Wakulla	1.30%	1.18%
WALTON	Walton	0.70%	0.70%

Jurisdiction	County	Conversion rates for local governments that have NOT chosen to levy permit fees	Conversion rates for local governments that have chosen to levy permit fees
DeFuniak Springs	Walton	6.00%	5.88%
Freeport	Walton	1.40%	1.28%
Paxton	Walton	2.80%	2.68%
WASHINGTON	Washington	0.30%	0.30%
Caryville	Washington	1.00%	0.88%
Chipley	Washington	5.70%	5.58%
Ebro	Washington	0.60%	0.48%
Vernon	Washington	5.80%	5.68%
Wausau	Washington	1.90%	1.78%

The conversion rate displayed in the rows with the name of the county in capitalized letters assigns the conversion rate for the unincorporated area. This paragraph is repealed October 1, 2002.

(b) Beginning October 1, 2002, there are hereby levied the following local communications services tax conversion rates on taxable sales as authorized by s. 202.19. The conversion rates take effect without any action required by the local government. The conversion rates for local governments that have not chosen to levy permit fees do not include the add-ons of up to 0.12 percent for municipalities and charter counties or of up to 0.24 percent for noncharter counties authorized pursuant to s. 337.401.

Jurisdiction	County	Conversion rates for local governments that have NOT chosen to levy permit fees	Conversion rates for local governments that have chosen to levy permit fees
ALACHUA	Alachua	4.70%	4.58%
Alachua	Alachua	3.80%	3.58%
Archer	Alachua	3.10%	2.98%
Gainesville	Alachua	4.90%	4.78%
Hawthorne	Alachua	1.90%	1.78%
High Springs	Alachua	2.60%	2.48%
LaCrosse	Alachua	3.30%	3.18%
Micanopy	Alachua	2.50%	2.38%
Newberry	Alachua	4.20%	4.08%
Waldo	Alachua	1.30%	1.18%
BAKER	Baker	0.40%	0.40%
Glen Saint Mary	Baker	5.30%	5.18%
Macclenny	Baker	5.90%	5.78%
BAY	Bay	0.00%	0.00%
Callaway	Bay	5.10%	4.98%
Cedar Grove	Bay	4.80%	4.68%
Lynn Haven	Bay	4.90%	4.78%
Mexico Beach	Bay	3.00%	2.88%
Panama City	Bay	4.90%	4.78%
Panama City Beach	Bay	3.50%	3.38%
Parker	Bay	4.80%	4.68%
Springfield	Bay	4.00%	3.88%
BRADFORD	Bradford	0.50%	0.50%
Brooker	Bradford	3.00%	2.88%
Hampton	Bradford	2.20%	2.08%
Lawtey	Bradford	1.10%	0.98%
Starke	Bradford	3.50%	2.88%
BREVARD	Brevard	1.30%	1.08%
Cape Canaveral	Brevard	4.50%	4.38%
Cocoa	Brevard	3.90%	3.78%
Cocoa Beach	Brevard	5.10%	4.98%
Indialantic	Brevard	6.20%	6.08%
Indian Harbour Beach	Brevard	4.00%	3.88%
Malabar	Brevard	4.90%	4.78%
Melbourne	Brevard	4.90%	4.78%
Melbourne Beach	Brevard	4.80%	4.68%
Melbourne Village	Brevard	4.10%	3.98%
Palm Bay	Brevard	5.00%	4.88%
Palm Shores	Brevard	4.80%	4.68%
Rockledge	Brevard	4.10%	3.98%
Satellite Beach	Brevard	1.70%	1.58%
Titusville	Brevard	5.30%	5.18%
West Melbourne	Brevard	5.40%	5.28%
BROWARD	Broward	4.80%	4.68%
Coconut Creek	Broward	4.70%	4.58%
Cooper City	Broward	4.80%	4.68%
Coral Springs	Broward	5.00%	4.88%
Dania	Broward	5.20%	5.08%
Davie	Broward	5.20%	5.08%
Deerfield Beach	Broward	1.40%	1.28%
Ft. Lauderdale	Broward	5.10%	4.98%
Hallandale	Broward	4.80%	4.68%
Hillsboro Beach	Broward	1.20%	1.08%
Hollywood	Broward	4.80%	4.68%
Lauderdale-by-the-Sea	Broward	4.90%	4.78%
Lauderdale Lakes	Broward	5.20%	5.08%
Lauderhill	Broward	5.10%	4.98%
Lazy Lake Village	Broward	0.60%	0.48%
Lighthouse Point	Broward	6.10%	5.98%
Margate	Broward	5.20%	5.08%
Miramar	Broward	5.00%	4.88%
North Lauderdale	Broward	3.80%	3.68%
Oakland Park	Broward	5.30%	5.18%
Parkland	Broward	1.30%	1.18%
Pembroke Park	Broward	4.60%	4.48%
Pembroke Pines	Broward	5.30%	5.18%
Plantation	Broward	4.60%	4.48%
Pompano Beach	Broward	4.50%	4.38%
Sea Ranch Lakes	Broward	1.50%	1.38%
Southwest Ranches	Broward	4.50%	4.38%
Sunrise	Broward	4.60%	4.48%
Tamarac	Broward	2.30%	1.58%
Weston	Broward	5.00%	4.88%
Wilton Manors	Broward	5.50%	5.38%
CALHOUN	Calhoun	0.00%	0.00%
Altha	Calhoun	4.00%	3.88%
Blountstown	Calhoun	1.30%	1.18%
CHARLOTTE	Charlotte	1.80%	1.68%

Jurisdiction	County	Conversion rates for local governments that have NOT chosen to levy permit fees	Conversion rates for local governments that have chosen to levy permit fees
Punta Gorda	Charlotte	5.00%	4.88%
CITRUS	Citrus	2.00%	2.00%
Crystal River	Citrus	5.10%	4.98%
Inverness	Citrus	5.20%	5.08%
CLAY	Clay	5.80%	5.68%
Green Cove Springs	Clay	3.70%	3.58%
Keystone Heights	Clay	2.10%	1.98%
Orange Park	Clay	0.80%	0.68%
Penney Farms	Clay	1.90%	1.78%
COLLIER	Collier	2.10%	2.10%
Everglades	Collier	3.90%	3.58%
Marco Island	Collier	2.30%	1.78%
Naples	Collier	3.30%	3.18%
COLUMBIA	Columbia	1.30%	1.30%
Ft. White	Columbia	0.60%	0.48%
Lake City	Columbia	4.40%	4.28%
DESOTO	Desoto	2.10%	2.10%
Arcadia	Desoto	3.70%	3.58%
DIXIE	Dixie	0.10%	0.10%
Cross City	Dixie	2.50%	2.38%
Horseshoe Beach	Dixie	6.20%	6.08%
DUVAL/Jax Atlantic Beach	Duval	4.50%	4.38%
Baldwin	Duval	5.90%	5.78%
Jacksonville Beach	Duval	6.10%	5.98%
Neptune Beach	Duval	4.60%	4.38%
ESCAMBIA	Escambia	4.00%	3.88%
Century	Escambia	1.60%	1.60%
Pensacola	Escambia	2.10%	1.98%
FLAGLER	Flagler	5.10%	4.88%
Beverly Beach	Flagler	0.60%	0.60%
Bunnell	Flagler	1.80%	1.68%
Flagler Beach	Flagler & Volusia	2.50%	2.38%
Marineland	Flagler & St. Johns	4.90%	4.78%
Palm Coast	Flagler	0.40%	0.28%
FRANKLIN	Franklin	1.30%	1.18%
Apalachicola	Franklin	0.90%	0.90%
Carrabelle	Franklin	3.60%	3.48%
GADSDEN	Gadsden	5.70%	5.58%
Chattahoochee	Gadsden	0.20%	0.20%
Greensboro	Gadsden	1.00%	0.88%
Gretna	Gadsden	0.00%	0.00%
Havana	Gadsden	3.90%	3.78%
Midway	Gadsden	0.80%	0.68%
Quincy	Gadsden	3.70%	3.58%
GILCHRIST	Gilchrist	1.10%	0.98%
Bell	Gilchrist	0.00%	0.00%
Fanning Springs	Gilchrist & Levy	4.50%	4.38%
Trenton	Gilchrist	5.50%	5.38%
GLADES	Glades	3.90%	3.78%
Moore Haven	Glades	0.50%	0.50%
GULF	Gulf	1.20%	1.08%
Port St. Joe	Gulf	0.30%	0.30%
Wewahitchka	Gulf	3.60%	3.48%
HAMILTON	Hamilton	3.60%	3.48%
Jasper	Hamilton	0.30%	0.30%
Jennings	Hamilton	4.80%	4.58%
White Springs	Hamilton	1.50%	1.38%
HARDEE	Hardee	5.00%	4.88%
Bowling Green	Hardee	1.10%	1.10%
Wauchula	Hardee	3.20%	3.08%
Zolfo Springs	Hardee	5.00%	4.88%
HENDRY	Hendry	2.20%	2.08%
Clewiston	Hendry	0.70%	0.70%
La Belle	Hendry	3.20%	3.08%
HERNANDO	Hernando	4.10%	3.98%
Brooksville	Hernando	1.40%	1.40%
Weeki Wachee	Hernando	0.90%	0.78%
HIGHLANDS	Highlands	0.10%	0.00%
Avon Park	Highlands	1.10%	1.10%
Lake Placid	Highlands	4.40%	4.28%
Sebring	Highlands	0.90%	0.78%
HILLSBOROUGH	Hillsborough	1.10%	0.78%
Plant City	Hillsborough	2.10%	1.98%
Tampa	Hillsborough	5.60%	5.48%
Temple Terrace	Hillsborough	5.00%	4.88%
HOLMES	Holmes	5.40%	5.28%
Bonifay	Holmes	0.20%	0.20%
Esto	Holmes	5.70%	5.58%
Noma	Holmes	0.80%	0.68%
Ponce de Leon	Holmes	0.10%	0.00%
Westville	Holmes	2.70%	2.58%
INDIAN RIVER	Indian River	0.90%	0.78%
Fellsmere	Indian River	1.40%	1.40%
Indian River Shores	Indian River	4.10%	3.98%
Orchid	Indian River	2.80%	2.68%
Sebastian	Indian River	2.10%	1.98%
Vero Beach	Indian River	3.30%	3.18%
JACKSON	Jackson	5.00%	4.88%
Alford	Jackson	0.20%	0.20%
Bascom	Jackson	0.30%	0.18%
Campbellton	Jackson	1.20%	1.08%
Cottondale	Jackson	0.30%	0.18%
Graceville	Jackson	4.30%	4.18%
Grand Ridge	Jackson	4.40%	4.28%
Greenwood	Jackson	0.80%	0.68%
Jacob City	Jackson	0.40%	0.28%
Malone	Jackson	0.00%	0.00%
Marianna	Jackson	0.50%	0.38%
Sneads	Jackson	4.00%	3.88%
JEFFERSON	Jefferson	3.30%	3.18%
Monticello	Jefferson	0.90%	0.90%
LAFAYETTE	Lafayette	4.50%	4.38%
Mayo	Lafayette	0.00%	0.00%
LAKE	Lake	2.00%	1.88%
Astatula	Lake	1.70%	1.70%
Clermont	Lake	4.40%	4.28%
Eustis	Lake	4.70%	4.58%
Fruitland Park	Lake	5.10%	4.98%
Groveland	Lake	4.70%	4.58%
Howey-in-the-Hills	Lake	4.90%	4.78%
Lady Lake	Lake	3.30%	3.18%
Leesburg	Lake	1.40%	1.28%
Mascotte	Lake	1.30%	1.18%
		3.90%	3.78%

Jurisdiction	County	Conversion rates for local governments that have NOT chosen to levy permit fees	Conversion rates for local governments that have chosen to levy permit fees
Minneola	Lake	3.20%	3.08%
Montverde	Lake	1.80%	1.68%
Mount Dora	Lake	1.50%	1.18%
Tavares	Lake	5.20%	5.08%
Umatilla	Lake	3.10%	2.98%
LEE	Lee	2.00%	1.88%
Bonita Springs	Lee	1.70%	1.58%
Cape Coral	Lee	1.50%	1.38%
Ft. Myers	Lee	4.70%	4.58%
Ft. Myers Beach	Lee	2.20%	2.08%
Sanibel	Lee	2.30%	2.18%
LEON	Leon	1.00%	1.00%
Tallahassee	Leon	4.40%	4.28%
LEVY	Levy	0.00%	0.00%
Bronson	Levy	2.50%	2.38%
Cedar Key	Levy	2.10%	1.98%
Chiefland	Levy	2.70%	2.58%
Inglis	Levy	3.50%	3.38%
Otter Creek	Levy	0.70%	0.58%
Williston	Levy	1.60%	1.48%
Yankeetown	Levy	5.60%	5.48%
LIBERTY	Liberty	0.60%	0.60%
Bristol	Liberty	2.90%	2.78%
MADISON	Madison	0.40%	0.40%
Greenville	Madison	2.10%	1.98%
Lee	Madison	0.50%	0.38%
Madison	Madison	4.90%	4.48%
MANATEE	Manatee	0.70%	0.70%
Anna Maria	Manatee	1.40%	1.28%
Bradenton	Manatee	5.60%	5.48%
Bradenton Beach	Manatee	5.60%	5.48%
Holmes Beach	Manatee	3.50%	3.38%
Palmetto	Manatee	5.30%	5.18%
Longboat Key	Manatee & Sarasota	3.20%	3.08%
MARION	Marion	0.00%	0.00%
Bellview	Marion	0.90%	0.78%
Dunnellon	Marion	4.50%	4.38%
McIntosh	Marion	1.30%	1.18%
Ocala	Marion	4.80%	4.68%
Reddick	Marion	1.30%	1.18%
MARTIN	Martin	1.30%	1.30%
Jupiter Island	Martin	0.60%	0.48%
Ocean Breeze Park	Martin	2.20%	2.08%
Sewalls Point	Martin	2.30%	2.18%
Stuart	Martin	4.80%	4.68%
MIAMI-DADE	Miami-Dade	4.70%	4.48%
Aventura	Miami-Dade	5.20%	5.08%
Bal Harbour	Miami-Dade	4.90%	4.78
Bay Harbor Islands	Miami-Dade	4.80%	4.68%
Biscayne Park	Miami-Dade	4.40%	4.28%
Coral Gables	Miami-Dade	4.10%	3.98%
El Portal	Miami-Dade	5.60%	5.48%
Florida City	Miami-Dade	5.30%	5.18%
Golden Beach	Miami-Dade	2.00%	1.88%
Hialeah	Miami-Dade	5.00%	4.88%
Hialeah Gardens	Miami-Dade	5.10%	4.98%
Homestead	Miami-Dade	5.30%	5.18%
Indian Creek Village	Miami-Dade	0.70%	0.58%
Islandia	Miami-Dade	0.00%	0.00%
Key Biscayne	Miami-Dade	4.60%	4.48%
Medley	Miami-Dade	6.10%	5.98%
Miami	Miami-Dade	4.70%	4.58%
Miami Beach	Miami-Dade	4.70%	4.58%
Miami Shores	Miami-Dade	5.60%	5.48%
Miami Springs	Miami-Dade	3.00%	2.88%
North Bay	Miami-Dade	4.90%	4.78%
North Miami	Miami-Dade	4.80%	4.68%
North Miami Beach	Miami-Dade	5.00%	4.88%
Opa-Locka	Miami-Dade	3.70%	3.58%
Pinecrest	Miami-Dade	5.40%	5.28%
South Miami	Miami-Dade	4.80%	4.68%
Sunny Isles Beach	Miami-Dade	5.00%	4.88%
Surfside	Miami-Dade	4.80%	4.68%
Sweetwater	Miami-Dade	4.60%	4.48%
Virginia Gardens	Miami-Dade	0.40%	0.28%
West Miami	Miami-Dade	4.40%	4.28%
MONROE	Monroe	1.40%	1.40%
Islamorada	Monroe	0.40%	0.00%
Key Colony Beach	Monroe	2.40%	2.28%
Key West	Monroe	1.50%	1.38%
Layton	Monroe	0.00%	0.00%
Marathon	Monroe	1.90%	1.58%
NASSAU	Nassau	0.70%	0.70%
Callahan	Nassau	4.50%	4.38%
Fernandina Beach	Nassau	5.00%	4.88%
Hilliard	Nassau	3.20%	3.08%
OKALOOSA	Okaloosa	0.60%	0.60%
Cinco Bayou	Okaloosa	5.00%	4.88%
Crestview	Okaloosa	3.50%	3.38%
Destin	Okaloosa	1.90%	1.78%
Ft. Walton Beach	Okaloosa	5.50%	5.38%
Laurel Hill	Okaloosa	2.80%	2.68%
Mary Esther	Okaloosa	4.90%	4.78%
Niceville	Okaloosa	5.50%	5.38%
Shalimar	Okaloosa	5.00%	4.88%
Valparaiso	Okaloosa	3.80%	3.68%
OKEECHOBEE	Okeechobee	0.80%	0.80%
Okeechobee	Okeechobee	4.50%	4.38%
ORANGE	Orange	4.80%	4.58%
Apopka	Orange	6.00%	5.88%
Bay Lake	Orange	0.00%	0.00%
Belle Isle	Orange	1.60%	1.48%
Eatonville	Orange	4.30%	4.18%
Edgewood	Orange	1.00%	0.88%
Lake Buena Vista	Orange	0.00%	0.00%
Maitland	Orange	5.10%	4.98%
Oakland	Orange	5.00%	4.78%
Ocoee	Orange	4.60%	4.28%
Orlando	Orange	4.10%	3.88%
Windermere	Orange	4.30%	4.18%

Jurisdiction	County	Conversion rates for local governments that have NOT chosen to levy permit fees	Conversion rates for local governments that have chosen to levy permit fees
Winter Garden	Orange	4.30%	4.18%
Winter Park	Orange	5.60%	5.48%
OSCEOLA	Osceola	5.00%	4.88%
Kissimmee	Osceola	4.50%	4.38%
St. Cloud	Osceola	5.10%	4.98%
PALM BEACH	Palm Beach	4.60%	4.48%
Atlantis	Palm Beach	1.10%	0.98%
Belle Glade	Palm Beach	5.00%	4.88%
Boca Raton	Palm Beach	5.30%	5.08%
Boynton Beach	Palm Beach	4.80%	4.68%
Briny Breezes	Palm Beach	3.00%	0.28%
Cloud Lake	Palm Beach	2.20%	2.08%
Delray Beach	Palm Beach	4.40%	4.28%
Glen Ridge	Palm Beach	1.50%	1.38%
Golf Village	Palm Beach	0.60%	0.48%
Golfview	Palm Beach	0.60%	0.48%
Greenacres City	Palm Beach	5.30%	5.18%
Gulf Stream	Palm Beach	1.00%	0.88%
Haverhill	Palm Beach	1.40%	1.18%
Highland Beach	Palm Beach	4.00%	3.88%
Hypoluxo	Palm Beach	5.80%	5.68%
Juno Beach	Palm Beach	4.70%	4.58%
Jupiter	Palm Beach	4.00%	3.88%
Jupiter Inlet Colony	Palm Beach	1.90%	1.78%
Lake Clarke Shores	Palm Beach	1.50%	1.38%
Lake Park	Palm Beach	5.20%	5.08%
Lake Worth	Palm Beach	4.80%	4.68%
Lantana	Palm Beach	5.30%	5.18%
Manalapan	Palm Beach	1.60%	1.48%
Mangonia Park	Palm Beach	5.50%	5.38%
North Palm Beach	Palm Beach	5.10%	4.88%
Ocean Ridge	Palm Beach	1.00%	0.88%
Pahokee	Palm Beach	4.20%	4.08%
Palm Beach	Palm Beach	4.50%	4.38%
Palm Beach Gardens	Palm Beach	1.10%	0.98%
Palm Beach Shores	Palm Beach	5.40%	5.28%
Palm Springs	Palm Beach	5.20%	5.08%
Riviera Beach	Palm Beach	4.50%	4.38%
Royal Palm Beach	Palm Beach	4.90%	4.78%
South Bay	Palm Beach	5.10%	4.98%
South Palm Beach	Palm Beach	5.60%	5.48%
Tequesta Village	Palm Beach	4.10%	3.98%
Wellington	Palm Beach	5.10%	4.98%
West Palm Beach	Palm Beach	5.30%	5.18%
PASCO	Pasco	1.50%	1.50%
Dade City	Pasco	4.90%	4.78%
New Port Richey	Pasco	5.50%	5.38%
Port Richey	Pasco	0.90%	0.78%
Saint Leo	Pasco	1.00%	0.88%
San Antonio	Pasco	0.80%	0.68%
Zephyrhills	Pasco	5.40%	5.28%
PINELLAS	Pinellas	1.80%	1.68%
Belleair	Pinellas	1.60%	1.48%
Belleair Beach	Pinellas	6.00%	5.88%
Belleair Bluffs	Pinellas	2.00%	1.88%
Belleair Shore	Pinellas	2.40%	2.28%
Clearwater	Pinellas	5.00%	4.88%
Dunedin	Pinellas	5.20%	5.08%
Gulfport	Pinellas	6.00%	5.88%
Indian Rocks Beach	Pinellas	2.30%	2.18%
Indian Shores	Pinellas	2.60%	2.48%
Kenneth City	Pinellas	1.30%	1.18%
Largo	Pinellas	5.50%	5.38%
Madeira Beach	Pinellas	5.60%	5.48%
North Redington Beach	Pinellas	1.70%	1.58%
Oldsmar	Pinellas	5.70%	5.58%
Pinellas Park	Pinellas	5.40%	5.28%
Redington Beach	Pinellas	5.40%	5.28%
Redington Shores	Pinellas	1.10%	0.98%
Safety Harbor	Pinellas	6.40%	5.88%
St. Pete Beach	Pinellas	5.70%	5.58%
St. Petersburg	Pinellas	5.50%	5.38%
Seminole	Pinellas	5.10%	4.98%
South Pasadena	Pinellas	5.60%	5.48%
Tarpon Springs	Pinellas	5.60%	5.48%
Treasure Island	Pinellas	2.20%	2.08%
POLK	Polk	2.70%	2.58%
Auburndale	Polk	4.30%	4.18%
Bartow	Polk	6.00%	5.28%
Davenport	Polk	3.40%	3.28%
Dundee	Polk	5.60%	5.48%
Eagle Lake	Polk	5.30%	5.18%
Ft. Meade	Polk	5.20%	4.58%
Frostproof	Polk	5.20%	5.08%
Haines City	Polk	5.10%	4.98%
Highland Park	Polk	0.00%	0.00%
Hillcrest Heights	Polk	1.10%	0.98%
Lake Alfred	Polk	4.50%	4.38%
Lake Hamilton	Polk	3.60%	3.48%
Lake Wales	Polk	4.40%	4.28%
Lakeland	Polk	5.20%	5.08%
Mulberry	Polk	3.10%	2.98%
Polk City	Polk	2.80%	2.68%
Winter Haven	Polk	6.20%	6.08%
PUTNAM	Putnam	1.20%	1.20%
Crescent City	Putnam	4.30%	4.18%
Interlachen	Putnam	1.60%	1.48%
Palatka	Putnam	5.00%	4.88%
Pomona Park	Putnam	2.90%	2.78%
Welaka	Putnam	2.50%	2.38%

Jurisdiction	County	Conversion rates for local governments that have NOT chosen to levy permit fees	Conversion rates for local governments that have chosen to levy permit fees
SANTA ROSA	Santa Rosa	1.50%	1.50%
Gulf Breeze	Santa Rosa	1.10%	0.98%
Jay	Santa Rosa	1.30%	1.18%
Milton	Santa Rosa	5.70%	5.58%
SARASOTA	Sarasota	4.70%	4.58%
North Port	Sarasota	5.60%	5.48%
Sarasota	Sarasota	5.20%	5.08%
Venice	Sarasota	5.00%	4.88%
SEMINOLE	Seminole	2.90%	2.68%
Altamonte Springs	Seminole	4.80%	4.68%
Casselberry	Seminole	5.30%	5.18%
Lake Mary	Seminole	4.10%	3.98%
Longwood	Seminole	5.40%	5.28%
Oviedo	Seminole	4.30%	4.18%
Sanford	Seminole	4.70%	4.58%
Winter Springs	Seminole	5.80%	5.68%
ST. JOHNS	St. Johns	1.20%	1.20%
Hastings	St. Johns	1.50%	1.38%
St. Augustine	St. Johns	4.50%	4.38%
St. Augustine Beach	St. Johns	4.50%	4.38%
ST. LUCIE	St. Lucie	1.20%	1.20%
Ft. Pierce	St. Lucie	4.50%	4.38%
Port St. Lucie	St. Lucie	1.50%	1.38%
St. Lucie Village	St. Lucie	1.60%	1.48%
SUMTER	Sumter	0.70%	0.70%
Bushnell	Sumter	5.00%	4.88%
Center Hill	Sumter	4.30%	4.18%
Coleman	Sumter	3.90%	3.78%
Webster	Sumter	3.10%	2.98%
Wildwood	Sumter	3.60%	3.48%
SUWANNEE	Suwannee	0.40%	0.40%
Branford	Suwannee	4.60%	4.48%
Live Oak	Suwannee	5.60%	5.48%
TAYLOR	Taylor	1.10%	1.10%
Perry	Taylor	5.50%	5.38%
UNION	Union	0.40%	0.40%
Lake Butler	Union	2.30%	2.18%
Raiford	Union	0.00%	0.00%
Worthington Springs	Union	0.00%	0.00%
VOLUSIA	Volusia	3.90%	3.78%
Daytona Beach	Volusia	4.60%	4.48%
Daytona Beach Shores	Volusia	5.10%	4.98%
DeBary	Volusia	4.40%	4.28%
DeLand	Volusia	4.20%	4.08%
Deltona	Volusia	6.10%	5.98%
Edgewater	Volusia	4.80%	4.68%
Holly Hill	Volusia	4.20%	4.08%
Lake Helen	Volusia	2.00%	1.88%
New Smyrna Beach	Volusia	4.00%	3.88%
Oak Hill	Volusia	3.50%	3.38%
Orange City	Volusia	4.50%	4.38%
Ormond Beach	Volusia	4.90%	4.78%
Pierson	Volusia	1.10%	0.98%
Ponce Inlet	Volusia	5.30%	5.18%
Port Orange	Volusia	4.70%	4.58%
South Daytona	Volusia	5.60%	5.48%
WAKULLA	Wakulla	0.80%	0.80%
St. Marks	Wakulla	0.00%	0.00%
Sopchoppy	Wakulla	1.20%	1.08%
WALTON	Walton	0.70%	0.70%
DeFuniak Springs	Walton	4.70%	4.58%
Freeport	Walton	1.30%	1.18%
Paxton	Walton	2.60%	2.48%
WASHINGTON	Washington	0.20%	0.20%
Caryville	Washington	1.00%	0.88%
Chipley	Washington	5.30%	5.18%
Ebro	Washington	0.60%	0.48%
Vernon	Washington	5.40%	5.28%
Wausau	Washington	1.70%	1.58%

The conversion rate displayed in the rows with the name of the county in capitalized letters assigns the conversion rate for the unincorporated area.

(c) Notwithstanding the rates provided by paragraph (b), the following local communications services tax conversion rates shall take effect upon the expiration of existing franchise agreements which provide for fees in excess of those authorized by s. 337.401. The conversion rates for local governments that have not chosen to levy permit fees do not include the add-ons of up to 0.12 percent for municipalities and charter counties or of up to 0.24 percent for noncharter counties authorized pursuant to s. 337.401.

Jurisdiction	County	Conversion rates for local governments that have NOT chosen to levy permit fees	Conversion rates for local governments that have chosen to levy permit fees	Effective date of new rates
Indialantic	Brevard	5.80%	5.68%	January 1, 2014
Titusville	Brevard	5.00%	4.88%	January 1, 2014
Punta Gorda	Charlotte	4.90%	4.78%	January 1, 2009
Miami	Miami-Dade	4.30%	4.18%	August 1, 2006
Valparaiso	Okaloosa	3.20%	3.08%	August 1, 2003
Dade City	Pasco	4.50%	4.38%	January 1,2011
Palatka	Putnam	4.70%	4.58%	September 1, 2003

~~(a) On or before December 31, 2000, the Revenue Estimating Conference shall compute for each municipality and county the rate of local communications services tax which would be required to be levied under s. 202.19(1) in order for such local taxing jurisdiction to raise in calendar year 1999, through the imposition of a local communications services tax, revenues equal to the sum of:~~

~~1. The amount of revenues estimated to have been received in calendar year 1999 based on the revenues that were actually received from the replaced revenue sources in the fiscal year ending September 30, 1999, adjusted to reflect the growth reasonably estimated to have occurred in the final quarter of calendar year 1999; and~~

~~2. An amount representing the revenues the jurisdiction would have received from the replaced revenue sources during the month immediately preceding the month in which local taxing jurisdictions receive their first distributions of revenues under this chapter.~~

~~In computing the amounts in subparagraphs 1. and 2., the Revenue Estimating Conference shall consider, to the maximum extent practicable, changes in local replaced revenues, other than changes due to normal growth, and shall adjust the amounts in subparagraphs 1. and 2. accordingly.~~

~~(b) The rates computed by the Revenue Estimating Conference shall be presented to the Legislature for review and approval during the 2001 Regular Session. The rates approved by the Legislature under this subsection shall be effective in the respective local taxing jurisdictions on October 1, 2001, without any action being taken by the governing authority or voters of such local taxing jurisdictions. The rate computed and approved pursuant to this subsection shall be reduced on October 1, 2002, by that portion of the rate which was necessary to recoup the 1 month of foregone revenues addressed in subparagraph (a)2.~~

(2)(a)1.~~(c)~~ With respect to any local taxing jurisdiction, if, for the periods ending December 31, 2001; March 31, 2002; June 30, 2002; or September 30, 2002, the revenues received by that local government from the local communications services tax imposed under *subsection (1)* ~~s. 202.19(1)~~ are less than the revenues received from the replaced revenue sources for the corresponding 2000-2001 period; plus reasonably anticipated growth in such revenues over the preceding 1-year period, based on the average growth of such revenues over the immediately preceding 5-year period; plus an amount representing the revenues from the replaced revenue sources for the 1-month period that the local taxing jurisdiction was required to forego, the governing authority may adjust the rate of the local communications services tax upward to the extent necessary to generate the entire shortfall in revenues within 1 year after the rate adjustment and by an amount necessary to generate the expected amount of revenue on an ongoing basis.

2. If complete data are not available at the time of determining whether the revenues received by a local government from the local communications services tax imposed under subsection (1) are less than the revenues received from the replaced revenue sources for the corresponding 2000-2001 period, as set forth in subparagraph 1., the local government shall use the best data available for the corresponding 2000-2001 period in making such determination.

3. The adjustment *permitted under subparagraph 1.* may be made by emergency ordinance *or resolution* and may be made notwithstanding the maximum rate established under *s. 202.19(2)* ~~subsection (2)~~ and notwithstanding any schedules or timeframes or any other limitations contained in this chapter. The emergency ordinance *or resolution* shall specify an effective date for the adjusted rate, which shall be no less than *60* ~~90~~ days after the date of adoption of the ordinance *or resolution and shall be effective with respect to taxable services included on bills that are dated on the first day of a month subsequent to the expiration of the 60-day period*. At the end of *1* ~~that~~ year *following the effective date of such adjusted rate*, the local governing authority shall, as soon as is consistent with s. 202.21, reduce the rate by that portion of the emergency rate which was necessary to recoup the amount of revenues not received prior to the implementation of the emergency rate.

4. If, for the period October 1, 2001 through September 30, 2002, the revenues received by a local government from the local communications services tax conversion rate established under subsection (1), adjusted upward for the difference in rates between paragraphs (1)(a) and (b) or any other rate adjustments or base changes, are above the threshold of 10 percent more than the revenues received from the replaced revenue sources for the corresponding 2000-2001 period plus reasonably anticipated growth in such revenues over the preceding 1-year period, based on the average growth of such revenues over the immediately preceding 5 year period, the governing authority must adjust the rate of the local communications services tax to the extent necessary to reduce revenues to the threshold by emergency ordinance or resolution within the time frames established in subparagraph 3. The foregoing rate adjustment requirement shall not apply to local government that adopts a local communications services tax rate by resolution or ordinance. If complete data are not available at the time of determining whether the revenues exceed the threshold, the local government shall use the best data available for the corresponding 2000-2001 period in making such determination. This subparagraph shall not be construed as establishing a right of action for any person to enforce this provision or challenge a local government's implementation of this subparagraph.

~~(2)(a) On or before December 31, 2000, the Revenue Estimating Conference shall compute, in accordance with this paragraph, the maximum rates at which local taxing jurisdictions shall be permitted to impose local communications services taxes under s. 202.19(1).~~

~~1. A single maximum rate shall apply to all municipalities and charter counties, and another single maximum rate shall apply to all other counties.~~

~~2. Each respective maximum rate, when applied to the services taxed pursuant to this chapter, shall be calculated to produce the revenues which could have been generated from the replaced revenue sources, assuming that all local taxing jurisdictions had imposed every replaced revenue source in the manner and at the rate that would have produced the greatest amount of revenues.~~

~~(b) The rates computed by the Revenue Estimating Conference shall be presented to the Legislature for review and approval during the 2001 Regular Session. The rates approved by the Legislature pursuant to this subsection shall be the maximum rates for purposes of s. 202.19(1).~~

~~(3)(a) Each person who provides communications services shall include as part of the August 2000 return due pursuant to chapter 212 on or before September 20, 2000, the information set forth in this paragraph, in a format prescribed by the department. Returns shall contain data for calendar year 1999 that may include, but are not limited to, remittances of replaced revenue sources for each local taxing jurisdiction and an estimate of the revenue from communications services that will be taxable pursuant to this chapter for each local taxing jurisdiction. Such data may also include, on an aggregated statewide basis, each person's statewide sales taxable under chapter 203, taxable sales under s. 212.05(1)(e), and estimates for sales exempt under s. 212.08(7)(j) and exempt sales to governmental and other exempt entities under chapter 212.~~

~~(b) All information furnished to the department under this subsection shall be available to all local taxing jurisdictions. Such taxpayer information shall remain subject to s. 213.053. Such data may not be disclosed or used by local taxing jurisdictions for any purpose other than to review the validity of data and the calculations made pursuant to this subsection.~~

~~(c) For each replaced revenue source, each county and each municipality shall provide the following data to the Department of Revenue on or before September 30, 2000:~~

~~1. The rate of the levy for calendar year 1999.~~

~~2. The amount of revenues received during fiscal year 1998-1999 and, if known, the 1999 calendar year.~~

~~3. A description of the revenue base or taxable services.~~

~~4. The name and federal employer identification number of each taxpayer.~~

~~5. For the purpose of assisting the Revenue Estimating Conference in the computations required by this section, any other relevant information, including, but not limited to, changes in the rate of replaced revenues or imposition of additional replaced revenues subsequent to September 30, 1999.~~

~~(d) The department shall provide technical assistance to the Revenue Estimating Conference and compile and analyze the information submitted pursuant to this subsection in the manner requested by the Revenue Estimating Conference.~~

(b)~~(4)~~ Except as otherwise provided in this subsection, "replaced revenue sources," as used in this section, means the following taxes, charges, fees, or other impositions to the extent that the respective local taxing jurisdictions were authorized to impose them prior to July 1, 2000.

1.~~(a)~~ With respect to municipalities and charter counties and the taxes authorized by s. 202.19(1):

a.~~1.~~ The public service tax on telecommunications authorized by s. 166.231(9).

b.~~2.~~ Franchise fees on cable service providers as authorized by 47 U.S.C. s. 542.

c.~~3.~~ The public service tax on prepaid calling arrangements.

d.~~4.~~ Franchise fees on dealers of communications services which use the public roads or rights-of-way, up to the limit set forth in s. 337.401. For purposes of calculating rates under this section, it is the legislative intent that charter counties be treated as having had the same authority as municipalities to impose franchise fees on recurring local telecommunication service revenues prior to July 1, 2000. However, the Legislature recognizes that the authority of charter counties to impose such fees is in dispute, and the treatment provided in this section is not an expression of legislative intent that charter counties actually do or do not possess such authority.

e.~~5.~~ Actual permit fees relating to placing or maintaining facilities in or on public roads or rights-of-way, collected from providers of long-distance, cable, and mobile communications services for the fiscal year ending September 30, 1999; however, if a municipality or charter county elects the option to charge permit fees pursuant to s. 337.401(3)(c)1.a., such fees shall not be included as a replaced revenue source.

2.~~(b)~~ With respect to all other counties and the taxes authorized in s. 202.19(1), franchise fees on cable service providers as authorized by 47 U.S.C. s. 542.

(3)~~(5)~~ For any county or school board that levies a discretionary surtax under s. 212.055, the rate of such tax *on communications services as authorized by s. 202.19(5)* shall be *as follows:*

County	*.5% Discretionary surtax conversion rates*	*1% Discretionary surtax conversion rates*	*1.5% Discretionary surtax conversion rates*
Alachua	*0.3%*	*0.6%*	*0.8%*
Baker	*0.3%*	*0.5%*	*0.8%*
Bay	*0.3%*	*0.5%*	*0.8%*
Bradford	*0.3%*	*0.6%*	*0.8%*
Brevard	*0.3%*	*0.6%*	*0.9%*
Broward	*0.3%*	*0.5%*	*0.8%*
Calhoun	*0.3%*	*0.5%*	*0.8%*
Charlotte	*0.3%*	*0.6%*	*0.9%*
Citrus	*0.3%*	*0.6%*	*0.9%*
Clay	*0.3%*	*0.6%*	*0.8%*
Collier	*0.4%*	*0.7%*	*1.0%*
Columbia	*0.3%*	*0.6%*	*0.9%*
Dade	*0.3%*	*0.5%*	*0.8%*
Desoto	*0.3%*	*0.6%*	*0.8%*
Dixie	*0.3%*	*0.5%*	*0.8%*
Duval	*0.3%*	*0.6%*	*0.8%*
Escambia	*0.3%*	*0.6%*	*0.9%*
Flagler	*0.4%*	*0.7%*	*1.0%*
Franklin	*0.3%*	*0.6%*	*0.9%*
Gadsden	*0.3%*	*0.5%*	*0.8%*
Gilchrist	*0.3%*	*0.5%*	*0.7%*
Glades	*0.3%*	*0.6%*	*0.8%*
Gulf	*0.3%*	*0.5%*	*0.8%*
Hamilton	*0.3%*	*0.6%*	*0.8%*
Hardee	*0.3%*	*0.5%*	*0.8%*
Hendry	*0.3%*	*0.6%*	*0.9%*
Hernando	*0.3%*	*0.6%*	*0.9%*
Highlands	*0.3%*	*0.6%*	*0.9%*
Hillsborough	*0.3%*	*0.6%*	*0.8%*
Holmes	*0.3%*	*0.6%*	*0.8%*
Indian River	*0.3%*	*0.6%*	*0.9%*
Jackson	*0.3%*	*0.5%*	*0.7%*
Jefferson	*0.3%*	*0.5%*	*0.8%*
Lafayette	*0.3%*	*0.5%*	*0.7%*
Lake	*0.3%*	*0.6%*	*0.9%*
Lee	*0.3%*	*0.6%*	*0.9%*
Leon	*0.3%*	*0.6%*	*0.8%*
Levy	*0.3%*	*0.5%*	*0.8%*
Liberty	*0.3%*	*0.6%*	*0.8%*
Madison	*0.3%*	*0.5%*	*0.8%*
Manatee	*0.3%*	*0.6%*	*0.8%*
Marion	*0.3%*	*0.5%*	*0.8%*
Martin	*0.3%*	*0.6%*	*0.8%*
Monroe	*0.3%*	*0.6%*	*0.9%*
Nassau	*0.3%*	*0.6%*	*0.8%*
Okaloosa	*0.3%*	*0.6%*	*0.8%*
Okeechobee	*0.3%*	*0.6%*	*0.9%*
Orange	*0.3%*	*0.5%*	*0.8%*
Osceola	*0.3%*	*0.5%*	*0.8%*
Palm Beach	*0.3%*	*0.6%*	*0.8%*
Pasco	*0.3%*	*0.6%*	*0.9%*
Pinellas	*0.3%*	*0.6%*	*0.9%*
Polk	*0.3%*	*0.6%*	*0.8%*
Putnam	*0.3%*	*0.6%*	*0.8%*
St. Johns	*0.3%*	*0.6%*	*0.8%*
St. Lucie	*0.3%*	*0.6%*	*0.8%*
Santa Rosa	*0.3%*	*0.6%*	*0.9%*
Sarasota	*0.3%*	*0.6%*	*0.9%*
Seminole	*0.3%*	*0.6%*	*0.8%*
Sumter	*0.3%*	*0.5%*	*0.8%*
Suwannee	*0.3%*	*0.6%*	*0.8%*
Taylor	*0.3%*	*0.6%*	*0.9%*
Union	*0.3%*	*0.5%*	*0.8%*
Volusia	*0.3%*	*0.6%*	*0.8%*
Wakulla	*0.3%*	*0.6%*	*0.9%*
Walton	*0.3%*	*0.6%*	*0.9%*
Washington	*0.3%*	*0.5%*	*0.8%*

The discretionary surtax conversion rate with respect to communications services reflected on bills dated on or after October 1, 2001 shall take effect without any further action by a county or school board that has levied a surtax on or before October 1, 2001. For a county or school board that levies a surtax subsequent to October 1, 2001, the discretionary surtax conversion rate with respect to communications services shall take effect upon the effective date of the surtax as provided in s.212.054. The discretionary sales surtax rate on communications services for a county or school board levying a combined rate which is not listed in the table provided by this subsection shall be calculated by averaging or adding the appropriate rates from the table and rounding up to the nearest tenth of a percent. ~~multiplied by a factor to determine the applicable rate of tax under s. 202.19(5). The Revenue Estimating Conference shall compute the factor on or before December 31, 2000. The factor shall be calculated such that any rate applied under s. 202.19(5) will produce substantially the same tax revenues as the corresponding rate levied on telecommunication services under s. 212.055 during the year ending September 30, 1999. The factor shall be calculated to three decimal places, and the tax rates calculated by applying the factor for purposes of s. 202.19(5) shall be rounded up to the nearest one-tenth percent. The factor shall be presented to the Legislature for review and approval during the 2001 Regular Session.~~

~~(6) For purposes of calculating the appropriate value of the replaced revenue under subparagraph (4)(a)2. and paragraph (4)(b), and in~~

~~conjunction with the study required by this act, the Revenue Estimating Conference may include in its computation any adjustment necessary to include the value of any in-kind requirements, institutional networks, and contributions for, or in support of, the use or construction of public, educational, or governmental access facilities allowed under federal law.~~

~~(7)(a) The provisions of this subsection shall apply only with respect to the initial tax rate of a local taxing jurisdiction which on October 1, 2001, is entitled to receive from any dealer of communications services fees in excess of the applicable limitation set forth in s. 337.401, as such section existed prior to the effective date of this section, pursuant to an agreement with such dealer of communications services in effect on such date.~~

~~(b) Immediately upon the expiration of an agreement described in paragraph (a), the rate determined under subsection (1), as it applies to such local taxing jurisdiction, shall automatically be reduced by the portion of such rate representing the difference between the fees actually received by the taxing jurisdiction pursuant to the agreement described in paragraph (a) for the fiscal year ending September 30, 1999, and the fees that such jurisdiction would have received for such period under the applicable limitation set forth in s. 337.401, as such section existed prior to the effective date of this section.~~

Section 13. *(1) Notwithstanding any provision of chapter 202, Florida Statutes, to the contrary, any municipality or county that has a local communications services tax conversion rate established under s. 202.20, Florida Statutes, which is less than the maximum rate established under s. 202.19, Florida Statutes, may by resolution or ordinance increase its rate up to the maximum rate established under s. 202.19, Florida Statutes, with such increased rate to be effective October 1, 2001. For purposes of this section, during the period beginning on October 1, 2001, and ending September 30, 2002, the maximum rate established under s. 202.19, Florida Statutes, shall be deemed to be the sum of such maximum rate plus the difference between the conversion rates set forth in paragraphs (a) and (b) of s. 202.20(1), Florida Statutes. The municipality or county shall notify the department of such increased rate by certified mail postmarked on or before July 16, 2001.*

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

Section 14. Section 202.21, Florida Statutes, is amended to read:

202.21 Effective dates; procedures for informing dealers of communications services of tax levies and rate changes.—Any adoption, repeal, or change in the rate of a local communications services tax imposed under s. 202.19 is effective with respect to taxable services included on bills that are dated on or after the January 1 subsequent to such adoption, repeal, or change. A municipality or county adopting, repealing, or changing the rate of such tax must notify the department of the adoption, repeal, or change by September 1 immediately preceding such January 1. Notification must be furnished on a form prescribed by the department and must specify the rate of tax; the effective date of the adoption, repeal, or change thereof; and the name, mailing address, and telephone number of a person designated by the municipality or county to respond to inquiries concerning the tax. The department shall provide notice of such adoption, repeal, or change to all affected dealers of communications services at least 90 days before the effective date of the tax. Any local government that adjusts the rate of its local communications services tax by emergency ordinance *or resolution* pursuant to s. 202.20*(2)*~~(1)(c)~~ shall notify the department of the new tax rate immediately upon its adoption. The department shall provide written notice of the adoption of the new rate to all affected dealers within 30 days after receiving such notice. In any notice to providers or publication of local tax rates for purposes of this chapter, the department shall express the rate for a municipality or charter county as the sum of the tax rates levied within such jurisdiction pursuant to s. 202.19(2)(a) and (5), and shall express the rate for any other county as the sum of the tax rates levied pursuant to s. 202.19(2)(b) and (5). The department is not liable for any loss of or decrease in revenue by reason of any error, omission, or untimely action that results in the nonpayment of a tax imposed under s. 202.19.

Section 15. Paragraph (c) of subsection (1), paragraph (b) of subsection (2), and paragraphs (b) and (c) of subsection (3) of section 202.22, Florida Statutes, are amended, paragraph (g) is added to subsection (3), and paragraph (b) of subsection (4) and paragraph (b) of subsection (6) of said section are amended, to read:

202.22 Determination of local tax situs.—

(1) A dealer of communications services who is obligated to collect and remit a local communications services tax imposed under s. 202.19 shall be held harmless from any liability, including tax, interest, and penalties, which would otherwise be due solely as a result of an assignment of a service address to an incorrect local taxing jurisdiction, if the dealer of communications services exercises due diligence in applying one or more of the following methods for determining the local taxing jurisdiction in which a service address is located:

(c)*1.* Employing enhanced zip codes to assign each street address, address range, post office box, or post office box range in the dealer's service area to a specific local taxing jurisdiction.

2. If an enhanced zip code overlaps boundaries of municipalities or counties, or if an enhanced zip code cannot be assigned to the service address because the service address is in a rural area or a location without postal delivery, the dealer of communications services or its database vendor shall assign the affected service addresses to one specific local taxing jurisdiction within such zip code based on a reasonable methodology. A methodology satisfies this *subparagraph* ~~paragraph~~ if the information used to assign service addresses is obtained by the dealer or its database vendor from:

a.~~1.~~ A database provided by the department;

b.~~2.~~ A database certified by the department under subsection (3);

c.~~3.~~ Responsible representatives of the relevant local taxing jurisdictions; or

d.~~4.~~ The United States Census Bureau or the United States Postal Service.

(2)

(b)1. Each local taxing jurisdiction shall furnish to the department all information needed to create and update the electronic database, including changes in service addresses, annexations, incorporations, reorganizations, and any other changes in jurisdictional boundaries. The information furnished to the department must specify an effective date, which must be the next ensuing January 1 or July 1, and such information must be furnished to the department at least 120 days prior to the effective date. However, the requirement that counties submit information pursuant to this paragraph shall be subject to appropriation.

2. The department shall update the electronic database in accordance with the information furnished by local taxing jurisdictions under subparagraph 1. Each update must specify the effective date as the next ensuing January 1 or July 1 and must be posted by the department on a website not less than 90 days prior to the effective date. *A substantially affected person may provide notice to the database administrator of an objection to information contained in the electronic database. If an objection is supported by competent evidence, the department shall forward the evidence to the affected local taxing jurisdictions and update the electronic database in accordance with the determination furnished by local taxing jurisdictions to the department.* The department shall also furnish the update on magnetic or electronic media to any dealer of communications services or vendor who requests the update on such media. However, the department may collect a fee from the dealer of communications services which does not exceed the actual cost of furnishing the update on magnetic or electronic media. *Information contained in the electronic database is conclusive for purposes of this chapter. The electronic database is not an order, a rule, or a policy of general applicability.*

3. Each update must identify the additions, deletions, and other changes to the preceding version of the database. Each dealer of

communications services shall *be required to* collect and remit local communications services taxes imposed under this chapter only for those service addresses that are contained in the database and for which all of the elements required by this subsection are included in the database.

(3) For purposes of this section, a database must be certified by the department pursuant to rules that implement the following criteria and procedures:

(b) Upon receipt of an application for certification or recertification of a database, *the provisions of s. 120.60 shall apply, except that* the department shall examine the application and, within 90 days after receipt, notify the applicant of any apparent errors or omissions and request any additional information~~, conduct any inspection, or perform any testing~~ determined necessary. The applicant shall designate an individual responsible for providing access to all records, facilities, and processes the department determines are reasonably necessary to review*, inspect, or test to* ~~and~~ make a determination regarding the application. Such access must be provided within 10 working days after notification.

(c) The application must be in the form prescribed by rule and must include the applicant's name, federal employer identification number, mailing address, business address, and any other information required by the department. The application *may request that the applicant identify* ~~must identify, among other elements required by the department,~~ the applicant's proposal for testing the database.

(g) Notwithstanding any provision of law to the contrary, if a dealer submits an application for certification on or before the later of October 1, 2001, or the date which is 30 days after the date on which the applicable department rule becomes effective, and such application is neither approved nor denied within the time period set forth in paragraph (d):

1. For purposes of computing the amount of the deduction to which such dealer is entitled under s. 202.28, the dealer shall be deemed to have used a certified database pursuant to paragraph (1)(b), until such time as the application for certification is denied.

2. In the event that such application is approved, such approval shall be deemed to have been effective on the date of the application or October 1, 2001, whichever is later.

(4)

(b) Notwithstanding any law to the contrary, a dealer of communications services is exercising due diligence in applying one or more of the methods set forth in subsection (1) if the dealer:

1. Expends reasonable resources to accurately and reliably implement such method. However, the employment of enhanced zip codes pursuant to paragraph (1)(c) satisfies the requirements of this subparagraph; and

2. Maintains adequate internal controls in assigning street addresses, address ranges, post offices boxes, and post office box ranges to taxing jurisdictions. Internal controls are adequate if the dealer of communications services:

a. Maintains and follows procedures to obtain and implement periodic and consistent updates to the database *at least once every 6 months*; and

b. Corrects errors in the assignments of service addresses to local taxing jurisdictions within 120 days after the dealer discovers such errors.

(6)

(b) Notwithstanding s. 202.28, if a dealer of communications services employs a method of assigning service addresses other than as set forth in paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c), the deduction allowed to the dealer of communications services as compensation under s. 202.28 shall be 0.25 percent of *that portion of* the tax due and accounted for and remitted to the department *which is attributable to such method of assigning service addresses other than as set forth in paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c).*

Section 16. Subsection (8) is added to section 202.23, Florida Statutes, to read:

202.23 Procedure on purchaser's request for refund or credit of communications services taxes.—

(8)(a) Subject to the provisions of s. 213.756, if it appears, upon examination of a communications services tax return made under this chapter, or upon proof submitted to the department by the dealer, that an amount of communications services tax has been paid in excess of the amount due, the department may refund the amount of the overpayment to the dealer. The department may refund the overpayment without regard to whether the dealer has filed a written claim for refund; however, the department may require the dealer to file a statement affirming that the dealer made the overpayment. Prior to issuing a refund pursuant to this subsection, the department shall notify the dealer of its intent to issue such refund, the amount of such refund, and the reason for such refund.

(b) Notwithstanding the provisions of paragraph (a), a refund of communications services tax shall not be made, and no action for a refund may be brought by a dealer or other person, after the applicable period set forth in s. 215.26(2) has elapsed.

(c) If, after the issuance of a refund by the department pursuant to this subsection, the department determines that the amount of such refund exceeds the amount legally due to the dealer, the provisions of s. 202.35 concerning penalties and interest shall not apply if, within 60 days of receiving notice of such determination, the dealer reimburses the department the amount of such excess.

Section 17. Section 202.231, Florida Statutes, is created to read:

202.231 Provision of information to local taxing jurisdictions.—

(1) The department shall provide a monthly report to each jurisdiction imposing the tax authorized by s. 202.19. Each report shall contain the following information for the jurisdiction which is receiving the report: the name and other information necessary to identify each dealer providing service in the jurisdiction, including each dealer's federal employer identification number; the gross taxable sales reported by each dealer; the amount of the dealer's collection allowance; and any adjustments specified on the return, including audit assessments or refunds, and interest or penalties, affecting the net tax from each dealer which is being remitted to the jurisdiction. The report shall total the net amount transferred to the jurisdiction, showing the net taxes remitted by dealers less the administrative fees deducted by the department.

(2) Monthly reports shall be transmitted by the department to each municipality and county through a secure electronic mail system or by other suitable written or electronic means.

Section 18. Paragraph (c) of subsection (2) of section 202.24, Florida Statutes, is amended to read:

202.24 Limitations on local taxes and fees imposed on dealers of communications services.—

(2)(a) Except as provided in paragraph (c), each public body is prohibited from:

1. Levying on or collecting from dealers or purchasers of communications services any tax, charge, fee, or other imposition on or with respect to the provision or purchase of communications services.

2. Requiring any dealer of communications services to enter into or extend the term of a franchise or other agreement that requires the payment of a tax, charge, fee, or other imposition.

3. Adopting or enforcing any provision of any ordinance or agreement to the extent that such provision obligates a dealer of communications services to charge, collect, or pay to the public body a tax, charge, fee, or other imposition.

Each municipality and county retains authority to negotiate all terms and conditions of a cable service franchise allowed by federal and state law except those terms and conditions related to franchise fees and the definition of gross revenues or other definitions or methodologies related to the payment or assessment of franchise fees on providers of cable services.

(b) For purposes of this subsection, a tax, charge, fee, or other imposition includes any amount or in-kind payment of property or services which is required by ordinance or agreement to be paid or furnished to a public body by or through a dealer of communications services in its capacity as a dealer of communications services, regardless of whether such amount or in-kind payment of property or services is:

1. Designated as a sales tax, excise tax, subscriber charge, franchise fee, user fee, privilege fee, occupancy fee, rental fee, license fee, pole fee, tower fee, base-station fee, or other tax or fee;

2. Measured by the amounts charged or received for services, regardless of whether such amount is permitted or required to be separately stated on the customer's bill, by the type or amount of equipment or facilities deployed, or by other means; or

3. Intended as compensation for the use of public roads or rights-of-way, for the right to conduct business, or for other purposes.

(c) This subsection does not apply to:

1. Local communications services taxes levied under this chapter.

2. Ad valorem taxes levied pursuant to chapter 200.

3. Occupational license taxes levied under chapter 205.

4. "911" service charges levied under chapter 365.

5. Amounts charged for the rental or other use of property owned by a public body which is not in the public rights-of-way to a dealer of communications services for any purpose, including, but not limited to, the placement or attachment of equipment used in the provision of communications services.

6. Permit fees of general applicability which are not related to placing or maintaining facilities in or on public roads or rights-of-way.

7. Permit fees related to placing or maintaining facilities in or on public roads or rights-of-way pursuant to s. 337.401.

8. Any in-kind requirements, institutional networks, or contributions for, or in support of, the use or construction of public, educational, or governmental access facilities allowed under federal law and imposed on providers of cable service pursuant to any ordinance or agreement. Nothing in this subparagraph shall prohibit the ability of providers of cable service to recover such expenses as allowed under federal law. ~~This subparagraph shall be reviewed by the Legislature during the 2001 legislative session in conjunction with the study required by this act.~~

9. Special assessments and impact fees.

10. Pole attachment fees that are charged by a local government for attachments to utility poles owned by the local government.

11. Utility service fees or other similar user fees for utility services.

12. Any other generally applicable tax, fee, charge, or imposition authorized by general law on July 1, 2000, which is not specifically prohibited by this subsection or included as a replaced revenue source in s. 202.20.

Section 19. *Paragraph (i) of subsection (3) of section 202.26, Florida Statutes, is repealed.*

Section 20. Subsection (3) of section 202.27, Florida Statutes, is amended to read:

202.27 Return filing; rules for self-accrual.—

(3) The department shall accept returns, except those required to be initiated through an electronic data interchange, as timely if postmarked on or before the 20th day of the month; if the 20th day falls on a Saturday, Sunday, or federal or state legal holiday, returns are timely if postmarked on the next succeeding workday. ~~Any dealer who makes sales of any nature in two or more locations for which returns are required to be filed with the department and who maintains records for such locations in a central office or place may, on each reporting date, file one return for all such places of business in lieu of separate returns for each location; however, the return must clearly indicate the amounts collected within each location.~~ Each dealer shall file a return for each tax period even though no tax is due for such period.

Section 21. Subsection (1) of section 202.28, Florida Statutes, is amended to read:

202.28 Credit for collecting tax; penalties.—

(1) Except as otherwise provided in s. 202.22, for the purpose of compensating persons providing communications services for the keeping of prescribed records, the filing of timely tax returns, and the proper accounting and remitting of taxes, persons collecting taxes imposed under this chapter *and under s. 203.01(1)(a)2.* shall be allowed to deduct 0.75 percent of the amount of the tax due and accounted for and remitted to the department.

(a) The collection allowance may not be granted, nor may any deduction be permitted, if the required tax return or tax is delinquent at the time of payment.

(b) The department may deny the collection allowance if a taxpayer files an incomplete return.

1. For the purposes of this chapter, a return is incomplete if it is lacking such uniformity, completeness, and arrangement that the physical handling, verification, review of the return, or determination of other taxes and fees reported on the return can not be readily accomplished.

2. The department shall adopt rules requiring the information that it considers necessary to ensure that the taxes levied or administered under this chapter are properly collected, reviewed, compiled, reported, and enforced, including, but not limited to, rules requiring the reporting of the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; and the amount due with the return.

(c) The collection allowance and other credits or deductions provided in this chapter shall be applied to the taxes reported for the jurisdiction previously credited with the tax paid.

Section 22. Paragraph (a) of subsection (1) of section 202.37, Florida Statues, is amended, and paragraph (c) is added to that subsection, to read:

202.37 Special rules for administration of local communications services tax.—

(1)(a) Except as otherwise provided in this section, all statutory provisions and administrative rules applicable to the communications services tax imposed by s. 202.12 apply to any local communications services tax imposed under s. 202.19, and the department shall administer, collect, and enforce all taxes imposed under s. 202.19, including interest and penalties attributable thereto, in accordance with the same procedures used in the administration, collection, and enforcement of the communications services tax imposed by s. 202.12. *Audits performed by the department shall include a determination of the dealer's compliance with the jurisdictional situsing of its customers' service addresses and a determination of whether the rate collected for the local tax pursuant to ss. 202.19 and 202.20 is correct. The person or entity designated by a local government pursuant to s. 213.053(7)(u) may provide evidence to the department demonstrating a specific person's failure to fully or correctly report taxable communications services sales within the jurisdiction. The department may request additional information from the designee to assist in any review. The department*

shall inform the designee of what action, if any, the department intends to take regarding the person.

(c) Notwithstanding any other provision of law to the contrary, if a dealer of communications services provides communications services solely within a single county, that county or any municipality located therein may perform an audit of such dealer with respect to communications services provided by such dealer within such county, including both the state and local components of the communications services tax imposed and any other tax administered pursuant to this chapter.

1. Prior to the exercise of such authority, and for purposes of determining whether a dealer operates solely within one county, a local government may presume such localized operation if the dealer reports sales in a single county. Upon notice by the local government to the department of an intent to audit a dealer, the department shall notify the local government within 60 days if the department has issued a notice of intent to audit the dealer, or it shall notify the dealer of the local government's request to audit.

2. The dealer may, within 30 days, rebut the single-county operation presumption by providing evidence to the department that it provides communication services in more than one county in the State of Florida or that it is part of an affiliated group, members of which provide communications services in more than one county in the State of Florida. An affiliated group is defined as one or more chains of includable corporations or partnerships connected through ownership with a common parent corporation or other partnership which is an includable corporation or partnership when the common parent corporation or partnership has ownership in at least one other includable corporation or partnership which generally satisfy the requirements of Internal Revenue Code s. 267 or Internal Revenue Code s. 707. If a dealer or a member of an affiliated group provides communications services in more than one county in the State of Florida, the department will notify the local government that no audit may be performed.

3. If during the course of an audit conducted pursuant to this paragraph a local government determines that a dealer provided communications services in more that one county during the period under audit, the local government shall terminate the audit and notify the department of its findings.

4. Local governments conducting audits shall be bound by department rules and technical assistance advisement issued during the course of an audit conducted pursuant to this paragraph. Local governments conducting communications service tax audits pursuant to this subparagraph, or taxpayers being audited pursuant to this subparagraph, may request and the Department may issue technical assistance advisements pursuant to s.213.22 regarding a pending audit issue. When the department is requested to issue a technical assistance advisement hereunder, it shall notify the affected local government or taxpayer of the request.

5. Any Audit performed hereunder shall obligate the local government to extend situsing work performed during such audit to include all addresses within the county. Such audit results shall be performed on behalf of an computed for each local government and unincorporated county area inside the subject county and they shall be bound thereby.

6. The review, protest and collection of amounts due as the results of audit performed hereunder shall be the responsibility of the local jurisdiction and shall be governed by s. 166.234 to the extent not inconsistent with this chapter.

7. No fee or any portion of a fee for audits conducted on behalf of a municipality or county pursuant to this paragraph shall be based upon the amount assessed or collected as a result of the audit, and no determination based upon an audit conducted in violation of this prohibition shall be valid.

8. All audits performed pursuant to this paragraph shall be in accordance with standards promulgated by either the American Institute of Certified Public Accountants, the Institute of Internal Auditors, or the Comptroller General of the United States insofar as those standards are not inconsistent with Department of Revenue Rules.

9. Results of audits performed pursuant to this paragraph shall be valid for all jurisdictions within the subject county. The assessment, review and collection of any amounts ultimately determined to be due as the result of such an audit will be the responsibility of the auditing jurisdiction, and any such collections from the dealer shall be remitted to the Department of Revenue along with appropriate instructions for distribution of such amounts. No entity subject to audit hereunder can be audited by any local jurisdiction for compliance with this chapter more frequently than once every three years.

10. The department may adopt rules for the notification and determination processes established herein as well as for the information to be provided by a local government conducting an audit.

Section 23. Section 202.38, Florida Statutes, is created to read:

202.38 Special rules for bad debts and adjustments under previous taxes.—

(1)(a)1. Any dealer who has paid the tax imposed by chapter 212 on telecommunications services billed prior to October 1, 2001, which are no longer subject to such tax as a result of chapter 2000-260, Laws of Florida, may take a credit or obtain a refund of the state communications services tax imposed under this chapter on unpaid balances due on worthless accounts within 12 months following the last day of the calendar year for which the bad debt was charged off on the taxpayer's federal income tax return.

2. Any dealer who has paid a local public service tax levied pursuant to chapter 166 on telecommunications services billed prior to October 1, 2001, which are no longer subject to such tax as a result of chapter 2000-260, Laws of Florida, may take a credit or obtain a refund of the local communications services tax imposed by such jurisdiction on unpaid balances due on worthless accounts within 12 months following the last day of the calendar year for which the bad debt was charged off on the taxpayer's federal income tax return.

(b) If any account for which a credit or refund has been received under this section is then in whole or in part paid to the dealer, the amount paid must be included in the first communications services tax return filed after such receipt and the applicable state and local communications services tax paid accordingly.

(c) Bad debts associated with accounts receivable which have been assigned or sold with recourse are eligible upon reassignment for inclusion by the dealer in the credit or refund authorized by this section.

(2)(a) If any dealer would have been entitled to an adjustment of the tax imposed by chapter 212 on telecommunications services billed prior to October 1, 2001, which are no longer subject to such tax as a result of chapter 2000-260, Laws of Florida, such dealer may take a credit or obtain a refund of the state communications services tax imposed under this chapter.

(b) If any dealer would have been entitled to an adjustment of a local public service tax levied pursuant to chapter 166 on telecommunications services billed prior to October 1, 2001, which are no longer subject to such tax as a result of chapter 2000-260, Laws of Florida, such dealer may take a credit or obtain a refund of the local communications services tax imposed by such jurisdiction pursuant to this chapter.

(3) Credits and refunds of the tax imposed by chapter 203 attributable to bad debts or adjustments with respect to telecommunications services billed prior to October 1, 2001, shall be governed by the applicable provisions of this chapter.

(4) Notwithstanding any provision of law to the contrary, the refunds and credits allowed by this section shall be subject to audit by the state and the respective local taxing jurisdictions in any audit of the taxes to which such refunds and credits relate.

Section 24. Section 202.381, Florida Statutes, is created to read:

202.381 Transition from previous taxes.—The department is directed to implement the tax changes contained in this act, and in chapter 2000-260, Laws of Florida, in a manner that ensures that any request or action under existing statutes and rules, including, but not limited to, a claim

for a credit or refund of an overpayment of tax, audits in progress, and protests of tax, penalty, or interest initiated before October 1, 2001, shall apply, to the fullest extent possible, to any tax that replaces an existing tax that is repealed effective October 1, 2001. It is the intent of the Legislature that a person not be subject to an adverse administrative action solely due to the tax changes that take effect October 1, 2001.

Section 25. Paragraph (b) of subsection (1) of section 203.01, Florida Statutes, as amended by chapter 2000-260, Laws of Florida, is amended to read:

203.01 Tax on gross receipts for utility and communications services.—

(1)(a)1. Every person that receives payment for any utility service shall report by the last day of each month to the Department of Revenue, under oath of the secretary or some other officer of such person, the total amount of gross receipts derived from business done within this state, or between points within this state, for the preceding month and, at the same time, shall pay into the State Treasury an amount equal to a percentage of such gross receipts at the rate set forth in paragraph (b). Such collections shall be certified by the Comptroller upon the request of the State Board of Education.

2. A tax is levied on communications services as defined in s. 202.11(3). Such tax shall be applied to the same services and transactions as are subject to taxation under chapter 202, and to communications services that are subject to the exemption provided in s. 202.125(1). Such tax shall be applied to the sales price of communications services when sold at retail and to the actual cost of operating substitute communications systems, as such terms are defined in s. 202.11, shall be due and payable at the same time as the taxes imposed pursuant to chapter 202, and shall be administered and collected pursuant to the provisions of chapter 202.

(b) The rate applied to utility services shall be 2.5 percent. The rate applied to communications services shall be *2.37 percent* ~~the rate calculated pursuant to s. 44, chapter 2000-260, Laws of Florida~~.

Section 26. Paragraph (a) of subsection (1) of section 212.031, Florida Statutes, is amended to read:

212.031 Lease or rental of or license in real property.—

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.

2. Used exclusively as dwelling units.

3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).

4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.

5. A public or private street or right-of-way and poles, conduits, fixtures, and similar improvements located on such streets or rights-of-way, occupied or used by a utility or *provider of communications services, as defined by s. 202.11,* ~~franchised cable television company~~ for utility or communications or television purposes. For purposes of this subparagraph, the term "utility" means any person providing utility services as defined in s. 203.012. This exception also applies to property, wherever located, on which the following are placed: towers, antennas, cables, accessory structures, or equipment, not including switching equipment, used in the provision of mobile communications services as defined in s. 202.11. For purposes of this chapter, towers used in the provision of mobile communications services, as defined in s. 202.11, are considered to be fixtures.

6. A public street or road which is used for transportation purposes.

7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.

8.a. Property used at a port authority, as defined in s. 315.02(2), exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels, or to the extent that the amount paid for the use of any property at the port is based on the charge for the amount of tonnage actually imported or exported through the port by a tenant.

b. The amount charged for the use of any property at the port in excess of the amount charged for tonnage actually imported or exported shall remain subject to tax except as provided in sub-subparagraph a.

9. Property used as an integral part of the performance of qualified production services. As used in this subparagraph, the term "qualified production services" means any activity or service performed directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b), and includes:

a. Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic, or otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation, and management), hair and makeup (design, production, and application), performing (such as acting, dancing, and playing), designing and executing stunts, coaching, consulting, writing, scoring, composing, choreographing, script supervising, directing, producing, transmitting dailies, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing, and distributing;

b. The design, planning, engineering, construction, alteration, repair, and maintenance of real or personal property including stages, sets, props, models, paintings, and facilities principally required for the performance of those services listed in sub-subparagraph a.; and

c. Property management services directly related to property used in connection with the services described in sub-subparagraphs a. and b.

This exemption will inure to the taxpayer upon presentation of the certificate of exemption issued to the taxpayer under the provisions of s. 288.1258.

10. Leased, subleased, licensed, or rented to a person providing food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or any business operated under a permit issued pursuant to chapter 550. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

11. Property occupied pursuant to an instrument calling for payments which the department has declared, in a Technical Assistance Advisement issued on or before March 15, 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c), Florida Administrative Code; provided that this subparagraph shall only apply to property occupied by the same person before and after the execution of the subject instrument and only to those payments made pursuant to such instrument, exclusive of renewals and extensions thereof occurring after March 15, 1993.

12. Rented, leased, subleased, or licensed to a concessionaire by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility, during an event at the facility, to be used by the concessionaire to sell souvenirs, novelties, or other event-related products. This subparagraph applies only to that portion of the rental, lease, or license payment which is based on a percentage of sales and not based on a fixed price.

13. Property used or occupied predominantly for space flight business purposes. As used in this subparagraph, "space flight business" means the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight, as defined by s. 212.02(23), or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto. Property shall be deemed to be used or occupied predominantly for space flight business purposes if more than 50 percent of the property, or improvements thereon, is used for one or more space flight business purposes. Possession by a landlord, lessor, or licensor of a signed written statement from the tenant, lessee, or licensee claiming the exemption shall relieve the landlord, lessor, or licensor from the responsibility of collecting the tax, and the department shall look solely to the tenant, lessee, or licensee for recovery of such tax if it determines that the exemption was not applicable.

Section 27. Effective July 1, 2003, paragraph (a) of subsection (1) of section 212.031, Florida Statutes, as amended by chapter 2000-345, Laws of Florida, is amended to read:

212.031 Lease or rental of or license in real property.—

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.

2. Used exclusively as dwelling units.

3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).

4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.

5. A public or private street or right-of-way and poles, conduits, fixtures, and similar improvements located on such streets or rights-of-way, occupied or used by a utility or *provider of communications services, as defined by s. 202.11,* ~~franchised cable television company~~ for utility or communications or television purposes. For purposes of this subparagraph, the term "utility" means any person providing utility services as defined in s. 203.012. This exception also applies to property, wherever located, on which the following are placed: towers, antennas, cables, accessory structures, or equipment, not including switching equipment, used in the provision of mobile communications services as defined in s. 202.11. For purposes of this chapter, towers used in the provision of mobile communications services, as defined in s. 202.11, are considered to be fixtures.

6. A public street or road which is used for transportation purposes.

7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.

8.a. Property used at a port authority, as defined in s. 315.02(2), exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels, or to the extent that the amount paid for the use of any property at the port is based on the charge for the amount of tonnage actually imported or exported through the port by a tenant.

b. The amount charged for the use of any property at the port in excess of the amount charged for tonnage actually imported or exported shall remain subject to tax except as provided in sub-subparagraph a.

9. Property used as an integral part of the performance of qualified production services. As used in this subparagraph, the term "qualified production services" means any activity or service performed directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b), and includes:

a. Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic, or otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation, and management), hair and makeup (design, production, and application), performing (such as acting, dancing, and playing), designing and executing stunts, coaching, consulting, writing, scoring, composing, choreographing, script supervising, directing, producing, transmitting dailies, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing, and distributing;

b. The design, planning, engineering, construction, alteration, repair, and maintenance of real or personal property including stages, sets, props, models, paintings, and facilities principally required for the performance of those services listed in sub-subparagraph a.; and

c. Property management services directly related to property used in connection with the services described in sub-subparagraphs a. and b.

This exemption will inure to the taxpayer upon presentation of the certificate of exemption issued to the taxpayer under the provisions of s. 288.1258.

10. Leased, subleased, licensed, or rented to a person providing food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or any business operated under a permit issued pursuant to chapter 550. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

11. Property occupied pursuant to an instrument calling for payments which the department has declared, in a Technical Assistance Advisement issued on or before March 15, 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c), Florida Administrative Code; provided that this subparagraph shall only apply to property occupied by the same person before and after the execution of the subject instrument and only to those payments made pursuant to such instrument, exclusive of renewals and extensions thereof occurring after March 15, 1993.

12. Property used or occupied predominantly for space flight business purposes. As used in this subparagraph, "space flight business" means the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight, as defined by s. 212.02(23), or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto. Property shall be deemed to be used or occupied predominantly for space flight business purposes if more than 50 percent of the property, or improvements thereon, is used for one or more space flight

business purposes. Possession by a landlord, lessor, or licensor of a signed written statement from the tenant, lessee, or licensee claiming the exemption shall relieve the landlord, lessor, or licensor from the responsibility of collecting the tax, and the department shall look solely to the tenant, lessee, or licensee for recovery of such tax if it determines that the exemption was not applicable.

Section 28. Paragraph (a) of subsection (2) of section 212.054, Florida Statutes, is amended to read:

212.054 Discretionary sales surtax; limitations, administration, and collection.—

(2)(a) The tax imposed by the governing body of any county authorized to so levy pursuant to s. 212.055 shall be a discretionary surtax on all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by this chapter *and communications services as defined for purposes of chapter 202*. The surtax, if levied, shall be computed as the applicable rate or rates authorized pursuant to s. 212.055 times the amount of taxable sales and taxable purchases representing such transactions. If the surtax is levied on the sale of an item of tangible personal property or on the sale of a service, the surtax shall be computed by multiplying the rate imposed by the county within which the sale occurs by the amount of the taxable sale. The sale of an item of tangible personal property or the sale of a service is not subject to the surtax if the property, the service, or the tangible personal property representing the service is delivered within a county that does not impose a discretionary sales surtax.

Section 29. Subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and s. 202.18(1)(b) and (2)(b) shall be as follows:

(a) Proceeds from the convention development taxes authorized under s. 212.0305 shall be reallocated to the Convention Development Tax Clearing Trust Fund.

(b) Proceeds from discretionary sales surtaxes imposed pursuant to ss. 212.054 and 212.055 shall be reallocated to the Discretionary Sales Surtax Clearing Trust Fund.

~~(c) Proceeds from the tax imposed pursuant to s. 212.06(5)(a)2. shall be reallocated to the Mail Order Sales Tax Clearing Trust Fund.~~

(c)~~(d)~~ Proceeds from the fees imposed under ss. 212.05(1)(i)3. and 212.18(3) shall remain with the General Revenue Fund.

(d)~~(c)~~ The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Solid Waste Management Trust Fund.

3. After the distribution under subparagraphs 1. and 2., 9.653 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. After the distribution under subparagraphs 1., 2., and 3., 0.065 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

5. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 2.25 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

6. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 1.0715 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

7. Of the remaining proceeds:

a. Beginning July 1, 2000, and in each fiscal year thereafter, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties shall begin each fiscal year on or before January 5th and shall continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment shall continue until such time that the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards prior to July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 prior to July 1, 2000.

b. The department shall distribute $166,667 monthly pursuant to s. 288.1162 to each applicant that has been certified as a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise" pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each applicant that has been certified as a "facility for a retained spring training franchise" pursuant to s. 288.1162; however, not more than $208,335 may be distributed monthly in the aggregate to all certified facilities for a retained spring training franchise. Distributions shall begin 60 days following such certification and shall continue for not more than 30 years. Nothing contained in this paragraph shall be construed to allow an applicant certified pursuant to s. 288.1162 to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(6). However, a certified applicant is entitled to receive distributions up to the maximum amount allowable and undistributed under this section for additional renovations and improvements to the facility for the franchise without additional certification.

c. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, $166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, $83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s.

288.1169. A lump sum payment of $999,996 shall be made, after certification and before July 1, 2000.

8. All other proceeds shall remain with the General Revenue Fund.

Section 30. Paragraph (b) of subsection (3) of section 11.45, Florida Statutes, is amended to read:

11.45 Definitions; duties; audits; reports.—

(3)

(b) The Legislative Auditing Committee shall direct the Auditor General to make a financial audit of any municipality whenever petitioned to do so by at least 20 percent of the electors of that municipality. The supervisor of elections of the county in which the municipality is located shall certify whether or not the petition contains the signatures of at least 20 percent of the electors of the municipality. After the completion of the audit, the Auditor General shall determine whether the municipality has the fiscal resources necessary to pay the cost of the audit. The municipality shall pay the cost of the audit within 90 days after the Auditor General's determination that the municipality has the available resources. If the municipality fails to pay the cost of the audit, the Department of Revenue shall, upon certification of the Auditor General, withhold from that portion of the distribution pursuant to s. 212.20(6)*(d)6.*~~(f)5.~~ which is distributable to such municipality a sum sufficient to pay the cost of the audit and shall deposit that sum into the General Revenue Fund of the state.

Section 31. Subsections (5) and (6) of section 218.65, Florida Statutes, are amended to read:

218.65 Emergency distribution.—

(5) At the beginning of each fiscal year, the Department of Revenue shall calculate a base allocation for each eligible county equal to the difference between the current per capita limitation times the county's population, minus prior year ordinary distributions to the county pursuant to ss. 212.20(6)*(d)*~~(c)~~3., 218.61, and 218.62. If moneys deposited into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20(6)*(d)*~~(c)~~4., excluding moneys appropriated for supplemental distributions pursuant to subsection (7), for the current year are less than or equal to the sum of the base allocations, each eligible county shall receive a share of the appropriated amount proportional to its base allocation. If the deposited amount exceeds the sum of the base allocations, each county shall receive its base allocation, and the excess appropriated amount shall be distributed equally on a per capita basis among the eligible counties.

(6) There is hereby annually appropriated from the Local Government Half-cent Sales Tax Clearing Trust Fund the distribution provided in s. 212.20(6)*(d)*~~(c)~~4. to be used for emergency and supplemental distributions pursuant to this section.

Section 32. Subsection (6) of section 288.1169, Florida Statutes, is amended to read:

288.1169 International Game Fish Association World Center facility; department duties.—

(6) The Department of Commerce must recertify every 10 years that the facility is open, that the International Game Fish Association World Center continues to be the only international administrative headquarters, fishing museum, and Hall of Fame in the United States recognized by the International Game Fish Association, and that the project is meeting the minimum projections for attendance or sales tax revenues as required at the time of original certification. If the facility is not recertified during this 10-year review as meeting the minimum projections, then funding will be abated until certification criteria are met. If the project fails to generate $1 million of annual revenues pursuant to paragraph (2)(e), the distribution of revenues pursuant to s. 212.20(6)*(d)7.d.*~~(e)6.e.~~ shall be reduced to an amount equal to $83,333 multiplied by a fraction, the numerator of which is the actual revenues generated and the denominator of which is $1 million. Such reduction shall remain in effect until revenues generated by the project in a 12-month period equal or exceed $1 million.

Section 33. Section 212.202, Florida Statutes, is amended to read:

212.202 Renaming, creation, and continuation of certain funds.—The Local Government Infrastructure Tax Trust Fund is hereby retitled the Discretionary Sales Surtax Clearing Trust Fund. The Mail Order Sales Tax Clearing Trust Fund is *retitled the Communications Services Tax Clearing Trust Fund* ~~hereby created in the State Treasury~~. Notwithstanding the repeal of s. 212.237 by s. 45, chapter 89-356, the Solid Waste Management Trust Fund shall continue to exist.

Section 34. Effective upon this act becoming a law, paragraph (c) of subsection (3) of section 337.401, Florida Statutes, as amended by section 50 of chapter 2000-260, Laws of Florida, is amended and subsection (5) is added to that section to read:

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

(3)

(c)1. It is the intention of the state to treat all providers of communications services that use or occupy municipal or charter county roads or rights-of-way for the provision of communications services in a nondiscriminatory and competitively neutral manner with respect to the payment of permit fees. Certain providers of communications services have been granted by general law the authority to offset permit fees against franchise or other fees while other providers of communications services have not been granted this authority. In order to treat all providers of communications services in a nondiscriminatory and competitively neutral manner with respect to the payment of permit fees, each municipality and charter county shall make an election under either sub-subparagraph a. or sub-subparagraph b. and must inform the Department of Revenue of the election by certified mail by July *16* ~~1~~, 2001. Such election shall take effect October 1, 2001.

a.(I) The municipality or charter county may require and collect permit fees from any providers of communications services that use or occupy municipal or county roads or rights-of-way. All fees permitted under this sub-subparagraph must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the roads or rights-of-way. A fee permitted under this sub-subparagraph may not: be offset against the tax imposed under chapter 202; include the costs of roads or rights-of-way acquisition or roads or rights-of-way rental; include any general administrative, management, or maintenance costs of the roads or rights-of-way; or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not permitted under this sub-subparagraph, the prevailing party may recover court costs and attorney's fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a municipality or charter county under this sub-subparagraph may not exceed $100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5)(b) or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way.

(II) To ensure competitive neutrality among providers of communications services, for any municipality or charter county that elects to exercise its authority to require and collect permit fees under this sub-subparagraph, the rate of the local communications services tax imposed by such jurisdiction, as computed under s. 202.20(1) and (2), shall automatically be reduced by a rate of 0.12 percent.

b. Alternatively, the municipality or charter county may elect not to require and collect permit fees from any provider of communications services that uses or occupies municipal or charter county roads or rights-of-way for the provision of communications services; however, each municipality or charter county that elects to operate under this sub-subparagraph retains all authority to establish rules and regulations for providers of communications services to use or occupy roads or rights-of-way as provided in this section. If a municipality or

charter county elects to operate under this sub-subparagraph, the total rate for the local communications services tax as computed under s. 202.20(1) and (2) for that municipality or charter county may be increased by ordinance *or resolution* by an amount not to exceed a rate of 0.12 percent. *If a municipality or charter county elects to increase its rate effective October 1, 2001, the municipality or charter county shall inform the department of such increased rate by certified mail postmarked on or before July 16, 2001.*

c. A municipality or charter county that does not make an election as provided for in this subparagraph shall be presumed to have elected to operate under the provisions of sub-subparagraph b.

2. Each noncharter county shall make an election under either sub-subparagraph a. or sub-subparagraph b. and shall inform the Department of Revenue of the election by certified mail by July *16* ~~1~~, 2001. Such election shall take effect October 1, 2001.

a. The noncharter county may elect to require and collect permit fees from any providers of communications services that use or occupy noncharter county roads or rights-of-way. All fees permitted under this sub-subparagraph must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the roads or rights-of-way. A fee permitted under this sub-subparagraph may not: be offset against the tax imposed under chapter 202; include the costs of roads or rights-of-way acquisition or roads or rights-of-way rental; include any general administrative, management, or maintenance costs of the roads or rights-of-way; or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not permitted under this sub-subparagraph, the prevailing party may recover court costs and attorney's fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a noncharter county under this sub-subparagraph may not exceed $100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5)(b) or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way.

b. Alternatively, the noncharter county may elect not to require and collect permit fees from any provider of communications services that uses or occupies noncharter county roads or rights-of-way for the provision of communications services; however, each noncharter county that elects to operate under this sub-subparagraph shall retain all authority to establish rules and regulations for providers of communications services to use or occupy roads or rights-of-way as provided in this section. If a noncharter county elects to operate under this sub-subparagraph, the total rate for the local communications services tax as computed under s. 202.20(1) and (2) for that noncharter county may be increased by ordinance *or resolution* by an amount not to exceed a rate of 0.24 percent, to replace the revenue the noncharter county would otherwise have received from permit fees for providers of communications services. *If a noncharter county elects to increase its rate effective October 1, 2001, the noncharter county shall inform the department of such increased rate by certified mail postmarked on or before July 16, 2001.*

c. A noncharter county that does not make an election as provided for in this subparagraph shall be presumed to have elected to operate under the provisions of sub-subparagraph b.

3. Except as provided in this paragraph, municipalities and counties retain all existing authority to require and collect permit fees from users or occupants of municipal or county roads or rights-of-way and to set appropriate permit fee amounts.

(5) If a municipality or county imposes any amount on a person or entity other than a provider of communications services in connection with the placement or maintenance by such person or entity of a communication facility in municipal or county roads or rights-of-way, such amounts, if any, shall not exceed the highest amount, if any, the municipality or county is imposing in such context as of the effective date of this section. If a municipality or county is not imposing any amount in such context as of the effective date of this section, any amount, if any, imposed thereafter, shall not be less than $500 per linear mile, payable annually, of any cable, fiber optic, or other pathway that makes physical use of the municipal or county rights-of-way. Any excess of $500 shall be applied in a nondiscriminatory manner and shall not exceed the sum of:

1. Costs directly related to the inconvenience or impairment solely caused by the disturbance to the municipal or county rights-of-way;

2. The reasonable cost of the regulatory activity of the municipality or county; and

3. The proportionate share of cost of land for such street, alley, or other public way attributable to utilization of the rights-of-way by such person or entity other than a provider of communications services.

Section 35. Paragraphs (f) and (g) of subsection (3) of section 337.401, Florida Statutes, as amended by section 51 of chapter 2000-260, Laws of Florida, are repealed, paragraphs (a), (b), (c), (e), and (h) of said subsection are amended, new paragraphs (j) and (k) are added to said subsection, subsections (4) and (5) of said section are amended, and subsection (6) is added to that section, to read:

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

(3)(a)*1.* Because of the unique circumstances applicable to providers of communications services, including, but not limited to, the circumstances described in paragraph (e) and the fact that federal and state law require the nondiscriminatory treatment of providers of telecommunications services, and because of the desire to promote competition among providers of communications services, it is the intent of the Legislature that municipalities and counties treat providers of communications services in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of communications facilities in the public roads or rights-of-way. Rules or regulations imposed by a municipality or county relating to providers of communications services placing or maintaining communications facilities in its roads or rights-of-way must be generally applicable to all providers of communications services and, notwithstanding any other law, may not require a provider of communications services, except as otherwise provided in *subparagraph 2.* ~~paragraph (f)~~, to apply for or enter into an individual license, franchise, or other agreement with the municipality or county as a condition of placing or maintaining communications facilities in its roads or rights-of-way. In addition to other reasonable rules or regulations that a municipality or county may adopt relating to the placement or maintenance of communications facilities in its roads or rights-of-way under this subsection, a municipality or county may require a provider of communications services that places or seeks to place facilities in its roads or rights-of-way to register with the municipality or county and to provide the name of the registrant; the name, address, and telephone number of a contact person for the registrant; the number of the registrant's current certificate of authorization issued by the Florida Public Service Commission or the Federal Communications Commission; and proof of insurance or self-insuring status adequate to defend and cover claims. *Nothing in this subparagraph is intended to limit or expand any existing zoning or land use authority of a municipality or county; however, no such zoning or land use authority may require an individual license, franchise, or other agreement as prohibited by this subparagraph.*

2. Notwithstanding the provisions of subparagraph 1., a municipality or county may, as provided by 47 U.S.C. s. 541, award one or more franchises within its jurisdiction for the provision of cable service, and a provider of cable service shall not provide cable service without such franchise. Each municipality and county retains authority to negotiate all terms and conditions of a cable service franchise allowed by federal law and s. 166.046, except those terms and conditions related to franchise fees and the definition of gross revenues or other definitions or methodologies related to the payment or assessment of franchise fees and permit fees as provided in paragraph (c) on providers of cable services. A municipality or county may exercise its right to require from providers of cable service in-kind requirements, including, but not

limited to, institutional networks, and contributions for, or in support of, the use or construction of public, educational, or governmental access facilities to the extent permitted by federal law. A provider of cable service may exercise its right to recover any such expenses associated with such in-kind requirements, to the extent permitted by federal law.

(b) *Registration described in subparagraph (a)1. does not establish a right to place or maintain, or priority for the placement or maintenance of, a communications facility in roads or rights-of-way of a municipality or county.* Each municipality and county retains the authority to regulate and manage municipal and county roads or rights-of-way in exercising its police power. Any rules or regulations adopted by a municipality or county which govern the occupation of its roads or rights-of-way by providers of communications services must be related to the placement or maintenance of facilities in such roads or rights-of-way, must be reasonable and nondiscriminatory, and may include only those matters necessary to manage the roads or rights-of-way of the municipality or county.

(c)1. It is the intention of the state to treat all providers of communications services that use or occupy municipal or charter county roads or rights-of-way for the provision of communications services in a nondiscriminatory and competitively neutral manner with respect to the payment of permit fees. Certain providers of communications services have been granted by general law the authority to offset permit fees against franchise or other fees while other providers of communications services have not been granted this authority. In order to treat all providers of communications services in a nondiscriminatory and competitively neutral manner with respect to the payment of permit fees, each municipality and charter county shall make an election under either sub-subparagraph a. or sub-subparagraph b. and must inform the Department of Revenue of the election by certified mail by July *16* ~~1~~, 2001. Such election shall take effect October 1, 2001.

a.(I) The municipality or charter county may require and collect permit fees from any providers of communications services that use or occupy municipal or county roads or rights-of-way. All fees permitted under this sub-subparagraph must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the roads or rights-of-way. A fee permitted under this sub-subparagraph may not: be offset against the tax imposed under chapter 202; include the costs of roads or rights-of-way acquisition or roads or rights-of-way rental; include any general administrative, management, or maintenance costs of the roads or rights-of-way; or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not permitted under this sub-subparagraph, the prevailing party may recover court costs and attorney's fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a municipality or charter county under this sub-subparagraph may not exceed $100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5)(b) or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way.

(II) To ensure competitive neutrality among providers of communications services, for any municipality or charter county that elects to exercise its authority to require and collect permit fees under this sub-subparagraph, the rate of the local communications services tax imposed by such jurisdiction, as computed under s. 202.20~~(1) and (2)~~, shall automatically be reduced by a rate of 0.12 percent.

b. Alternatively, the municipality or charter county may elect not to require and collect permit fees from any provider of communications services that uses or occupies municipal or charter county roads or rights-of-way for the provision of communications services; however, each municipality or charter county that elects to operate under this sub-subparagraph retains all authority to establish rules and regulations for providers of communications services to use or occupy roads or rights-of-way as provided in this section. If a municipality or charter county elects to operate under this sub-subparagraph, the total rate for the local communications services tax as computed under s. 202.20~~(1) and (2)~~ for that municipality or charter county may be increased by ordinance *or resolution* by an amount not to exceed a rate of 0.12 percent. *If a municipality or charter county elects to increase its rate effective October 1, 2001, the municipality or charter county shall inform the department of such increased rate by certified mail postmarked on or before July 16, 2001.*

c. A municipality or charter county that does not make an election as provided for in this subparagraph shall be presumed to have elected to operate under the provisions of sub-subparagraph b.

2. Each noncharter county shall make an election under either sub-subparagraph a. or sub-subparagraph b. and shall inform the Department of Revenue of the election by certified mail by July *16* ~~1~~, 2001. Such election shall take effect October 1, 2001.

a. The noncharter county may elect to require and collect permit fees from any providers of communications services that use or occupy noncharter county roads or rights-of-way. All fees permitted under this sub-subparagraph must be reasonable and commensurate with the direct and actual cost of the regulatory activity, including issuing and processing permits, plan reviews, physical inspection, and direct administrative costs; must be demonstrable; and must be equitable among users of the roads or rights-of-way. A fee permitted under this sub-subparagraph may not: be offset against the tax imposed under chapter 202; include the costs of roads or rights-of-way acquisition or roads or rights-of-way rental; include any general administrative, management, or maintenance costs of the roads or rights-of-way; or be based on a percentage of the value or costs associated with the work to be performed on the roads or rights-of-way. In an action to recover amounts due for a fee not permitted under this sub-subparagraph, the prevailing party may recover court costs and attorney's fees at trial and on appeal. In addition to the limitations set forth in this section, a fee levied by a noncharter county under this sub-subparagraph may not exceed $100. However, permit fees may not be imposed with respect to permits that may be required for service drop lines not required to be noticed under s. 556.108(5)(b) or for any activity that does not require the physical disturbance of the roads or rights-of-way or does not impair access to or full use of the roads or rights-of-way.

b. Alternatively, the noncharter county may elect not to require and collect permit fees from any provider of communications services that uses or occupies noncharter county roads or rights-of-way for the provision of communications services; however, each noncharter county that elects to operate under this sub-subparagraph shall retain all authority to establish rules and regulations for providers of communications services to use or occupy roads or rights-of-way as provided in this section. If a noncharter county elects to operate under this sub-subparagraph, the total rate for the local communications services tax as computed under s. 202.20~~(1) and (2)~~ for that noncharter county may be increased by ordinance *or resolution* by an amount not to exceed a rate of 0.24 percent, to replace the revenue the noncharter county would otherwise have received from permit fees for providers of communications services. *If a noncharter county elects to increase its rate effective October 1, 2001, the noncharter county shall inform the department of such increased rate by certified mail postmarked on or before July 16, 2001.*

c. A noncharter county that does not make an election as provided for in this subparagraph shall be presumed to have elected to operate under the provisions of sub-subparagraph b.

3. Except as provided in this paragraph, municipalities and counties retain all existing authority to require and collect permit fees from users or occupants of municipal or county roads or rights-of-way and to set appropriate permit fee amounts.

(e) The authority of municipalities and counties to require franchise fees from providers of communications services, with respect to the provision of communications services, is specifically preempted by the state, except as otherwise provided in *subparagraph (a)2.* ~~paragraph (f)~~, because of unique circumstances applicable to providers of communications services when compared to other utilities occupying

municipal or county roads or rights-of-way. Providers of communications services may provide similar services in a manner that requires the placement of facilities in municipal or county roads or rights-of-way or in a manner that does not require the placement of facilities in such roads or rights-of-way. Although similar communications services may be provided by different means, the state desires to treat providers of communications services in a nondiscriminatory manner and to have the taxes, franchise fees, and other fees paid by providers of communications services be competitively neutral. Municipalities and counties retain all existing authority, if any, to collect franchise fees from users or occupants of municipal or county roads or rights-of-way other than providers of communications services, and the provisions of this subsection shall have no effect upon this authority. The provisions of this subsection do not restrict the authority, if any, of municipalities or counties or other governmental entities to receive reasonable rental fees based on fair market value for the use of public lands and buildings on property outside the public roads or rights-of-way for the placement of communications antennas and towers.

(f)~~(h)~~ Except as expressly allowed or authorized by general law and except for the rights-of-way permit fees subject to paragraph (c), a municipality or county may not levy on a provider of communications services a tax, fee, or other charge or imposition for operating as a provider of communications services within the jurisdiction of the municipality or county which is in any way related to using its roads or rights-of-way. A municipality or county may not require or solicit in-kind compensation, except as otherwise provided in *subparagraph (a)2.* ~~paragraph (f)~~. Nothing in this paragraph shall impair any ordinance or agreement in effect on May 22, 1998, or any voluntary agreement entered into subsequent to that date, which provides for or allows in-kind compensation by a telecommunications company.

(j) Pursuant to this paragraph, any county or municipality may by ordinance change either its election made on or before July 16, 2001, under paragraph (c) or an election made under this paragraph.

1.a. If a municipality or charter county changes its election under this paragraph in order to exercise its authority to require and collect permit fees in accordance with this subsection, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 shall automatically be reduced by the sum of 0.12 percent plus the percentage, if any, by which such rate was increased pursuant to sub-subparagraph (c)1.b.

b. If a municipality or charter county changes its election under this paragraph in order to discontinue requiring and collecting permit fees, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 may be increased by ordinance or resolution by an amount not to exceed 0.24 percent.

2.a. If a noncharter county changes its election under this paragraph in order to exercise its authority to require and collect permit fees in accordance with this subsection, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 shall automatically be reduced by the percentage, if any, by which such rate was increased pursuant to sub-subparagraph (c)2.b.

b. If a noncharter county changes its election under this paragraph in order to discontinue requiring and collecting permit fees, the rate of the local communications services tax imposed by such jurisdiction pursuant to ss. 202.19 and 202.20 may be increased by ordinance or resolution by an amount not to exceed 0.24 percent.

3.a. Any change of election pursuant to this paragraph and any tax rate change resulting from such change of election shall be subject to the notice requirements of s. 202.21; however, no such change of election shall become effective prior to January 1, 2003.

b. Any county or municipality changing its election under this paragraph in order to exercise its authority to require and collect permit fees shall, in addition to complying with the notice requirements under s. 202.21, provide to all dealers providing communications services in such jurisdiction written notice of such change of election by July 1 immediately preceding the January 1 on which such change of election becomes effective. For purposes of this sub-subparagraph, dealers providing communications services in such jurisdiction shall include every dealer reporting tax to such jurisdiction pursuant to s. 202.37 on the return required under s. 202.27 to be filed on or before the 20th day of May immediately preceding the January 1 on which such change of election becomes effective.

(k) Notwithstanding the provisions of s. 202.19, when a local communications services tax rate is changed as a result of an election made or changed under this subsection, such rate shall not be rounded to tenths.

(4) As used in this section, "communications services" *has* ~~and "cable services" have~~ the same *meaning* ~~meanings~~ ascribed in chapter 202*, and "cable service" has the same meaning ascribed in 47 U.S.C. s. 522, as amended*.

(5) This section, except subsections (1) and (2) and paragraph (3)*(g)*~~(i)~~, does not apply to the provision of pay telephone service on public, municipal, or county roads or rights-of-way.

(6) If a municipality or county imposes any amount on a person or entity other than a provider of communications services in connection with the placement or maintenance by such person or entity of a communication facility in municipal or county roads or rights-of-way, such amounts, if any, shall not exceed the highest amount, if any, the municipality or county is imposing in such context as of the effective date of this section. If a municipality or county is not imposing any amount in such context as of the effective date of this section, any amount, if any, imposed thereafter, shall not be less than $500 per linear mile, payable annually, of any cable, fiber optic, or other pathway that makes physical use of the municipal or county rights-of-way. Any excess of $500 shall be applied in a nondiscriminatory manner and shall not exceed the sum of:

1. Costs directly related to the inconvenience or impairment solely caused by the disturbance to the municipal or county rights-of-way;

2. The reasonable cost of the regulatory activity of the municipality or county; and

3. The proportionate share of cost of land for such street, alley, or other public way attributable to utilization of the rights-of-way by such person or entity other than a provider of communications services.

Section 36. *Notwithstanding any provision of law to the contrary, the provisions of s. 166.234, Florida Statutes, shall continue to apply with respect to all public service taxes imposed on telecommunications services under s. 166.231(9), Florida Statutes, prior to its amendment by chapter 2000-260, Laws of Florida.*

Section 37. *(1) Notwithstanding any law or ordinance to the contrary, and regardless of the payment schedule contained in any license, franchise, ordinance, or other arrangement that provides for payment after December 31, 2001, all franchise fees required to be paid by cable or telecommunications service providers with respect to cable or telecommunications services provided prior to October 1, 2001, shall be paid on or before December 31, 2001.*

(2) For services provided prior to October 1, 2001, all franchise fees required to be paid prior to October 1, 2001, under any license, franchise, ordinance, or other arrangement shall be paid as provided in such license, franchise, ordinance, or other arrangement. Cable and telecommunications services providers shall be obligated to remit franchise fees collected from subscribers for services billed prior to October 1, 2001, regardless of their actual collection date.

(3) If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared severable.

Section 38. *Effective upon this act becoming a law, section 52, subsections (1) and (2) of section 58, and section 59 of chapter 2000-260, Laws of Florida, are repealed.*

Section 39. Except as otherwise provided herein, this act shall take effect October 1, 2001.

And the title is amended as follows:

On page ,
remove from the title of the bill:

and insert in lieu thereof: A bill to be entitled An act relating to tax on communications services; creating s. 202.105, F.S.; providing legislative findings and intent with respect to the Communications Services Tax Simplification Law; amending s. 202.11, F.S.; revising and providing definitions; amending s. 202.12, F.S.; specifying the rates for the state tax; revising provisions relating to application of said tax; providing for application of the tax rate to private communications services and mobile communications services; providing the initial method for determining the sales price of private communications services and a revised method effective January 1, 2004; relieving service providers of certain liability; revising provisions relating to direct-pay permits; creating s. 202.155, F.S.; providing special rules for mobile communications services; providing duties of home service providers and the Department of Revenue in determining a customer's place of primary use and determining the correct taxing jurisdiction; relieving service providers of certain liability; providing requirements with respect to identifying and separately stating the sales price of mobile communications services not subject to the taxes administered under ch. 202, F.S.; amending s. 202.16, F.S.; revising provisions relating to responsibility for payment of taxes and tax amounts and brackets; amending s. 202.17, F.S.; specifying that registration as a dealer of communications services does not constitute registration for purposes of placing and maintaining communications facilities in municipal or county rights-of-way; removing the registration fee for such dealers; revising provisions relating to resale certificates; amending s. 202.18, F.S.; revising provisions relating to distribution of a portion of the proceeds of the tax on direct-to-home satellite service and to distribution of local communications services taxes and adjustment of such distribution; amending s. 202.19, F.S.; revising provisions which authorize imposition of local communications services taxes and provide for use of revenues and certain credits; specifying the maximum rates of such taxes; providing the initial method for determining the sales price of private communications services for local communications services taxes and for the discretionary sales surtax under s. 212.055, F.S., that is imposed as a local communications services tax, and providing a revised method effective January 1, 2004; relieving service providers of certain liabilities; revising requirements relating to the direct-pay permit required to qualify for the limitation on local communications services taxes on interstate communications services; providing for application of local communications services taxes to mobile communications services; amending s. 202.20, F.S.; specifying the local communications services tax conversion rates; revising requirements with respect to adjustment by a local government of its tax rate when tax revenues are less than received from replaced revenue sources; requiring adjustment of the tax rate if revenues received for a specified period exceed a specified threshold; authorizing local governments to increase the tax rate established by the Revenue Estimating Conference and approved by the Legislature to the maximum tax rate so established and approved; amending s. 202.21, F.S.; conforming language; amending s. 202.22, F.S., relating to determination of local tax situs for a local communications services tax; revising requirements relating to use of enhanced zip codes; revising requirements relating to certification or recertification of a database by the department; specifying effect when certain applications for certification are not approved or denied within the required time period; revising provisions relating to a dealer's duty to update a database and to the amount of dealer's credit allowed when an alternative method of assigning service addresses is used; amending s. 202.23, F.S.; providing requirements for refunds when excess communications services tax has been paid; creating s. 202.231, F.S.; providing requirements for provision of information by the department to local taxing jurisdictions; amending s. 202.24, F.S., relating to limitations on local taxes and fees imposed on dealers of communications services; deleting language relating to legislative review; repealing s. 202.26(3)(i), F.S., which provides for adoption of rules by the department with respect to collection of information no longer required; amending s. 202.27, F.S.; deleting provisions which allow certain dealers making sales in more than one location to file a single return; amending s. 202.28, F.S.; including persons collecting the gross receipts tax in provisions relating to the dealer's credit; amending s. 202.37, F.S.; providing requirements for audits conducted with respect to local communications services taxes; providing that certain persons or entities may provide evidence to the department regarding failure to report taxable sales and providing authority of the department with respect thereto; creating s. 202.38, F.S.; providing for credits or refunds under ch. 202, F.S., for certain bad debts or adjustments with respect to taxes under ch. 212, F.S., or ch. 166, F.S., billed prior to October 1, 2001, and no longer subject to tax; creating s. 202.381, F.S.; providing requirements with respect to implementation of ch. 202, F.S., and ch. 2000-260, Laws of Florida, and transition from the previous tax structure; amending s. 203.01, F.S.; specifying the rate of the gross receipts tax on communications services; amending s. 212.031, F.S.; conforming language; amending s. 212.054, F.S.; clarifying that a discretionary sales surtax applies to transactions taxed under ch. 202, F.S.; amending s. 212.20, F.S.; removing provisions relating to deposit of certain proceeds under ch. 212, F.S., in the Mail Order Sales Tax Clearing Trust Fund; amending ss. 11.45, 218.65, and 288.1169, F.S.; correcting references; amending s. 212.202, F.S.; renaming the Mail Order Sales Tax Clearing Trust Fund as the Communications Services Tax Clearing Trust Fund; amending s. 337.401, F.S.; revising dates for notice of election by municipalities and counties regarding imposition of permit fees to the department; providing that a municipality or county that elects not to impose permit fees on communications services providers may increase its local tax rate by resolution; requiring notice to the department; prescribing regulations governing the amounts that may be imposed by municipalities and counties against certain persons or entities in connection with the placement or maintenance of communications facilities in municipal or county roads or rights-of-way; repealing s. 337.401(3)(f) and (g), F.S., relating to the authority of municipalities and counties to request in-kind requirements from cable service providers and to negotiate cable service franchises, and revising and relocating such provisions under said section; providing relationship of provisions relating to regulation of placement or maintenance of communications facilities in public roads or rights-of-way by counties or municipalities to zoning or land use authority; providing status of registration under such provisions; authorizing municipalities and counties to change their election regarding imposition of permit fees and providing for adjustment of tax rates; providing notice requirements; revising definitions; prescribing regulations governing the amounts that may be imposed by municipalities and counties against certain persons or entities in connection with the placement or maintenance of communications facilities in municipal or county roads or rights-of-way; specifying continued application of s. 166.234, F.S., relating to administration and rights and remedies, to municipal public service taxes on telecommunications services imposed prior to October 1, 2001; providing for payment of franchise fees by cable or telecommunications service providers with respect to services provided prior to October 1, 2001; providing for severability; repealing s. 52 of ch. 2000-260, Laws of Florida, which provides for a legislative study during the 2001 session; repealing s. 58(1) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of those administrative sections of ch. 202, F.S., which have taken effect; repealing s. 58(2) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of the following provisions prior to their October 1, 2001, effective date: the remainder of ch. 202, F.S., which provides for the taxation of the sale of communications services; other statutory amendments which provide related administrative provisions; provisions which remove levy of the municipal public service tax on telecommunication services; provisions which provide for a gross receipts tax on communications services to be applied pursuant to ch. 202, F.S.; provisions which remove the imposition of tax under ch. 212, F.S., on telecommunication service; provisions relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees; and provisions relating to the application of amendments made by ch. 2000-260, Laws of Florida; repealing s. 59 of ch. 2000-260, Laws of Florida,

which, effective June 30, 2001, amends s. 337.401, F.S., relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees, to remove amendments made by ch. 2000-260, Laws of Florida, which took effect January 1, 2001; providing effective dates

Rep. Ritter moved the adoption of the amendment.

Representative(s) Ritter offered the following:

(Amendment Bar Code: 815317)

Amendment 1 to Amendment 1—On page 122, between lines 23 and 24 and on page 133, after line 31 of the amendment

insert:

For purposes of this subsection, the term communications facility shall not include communications facilities owned, operated or used by electric utilities or regional transmission organizations exclusively for internal communications purposes. Except as specifically provided herein, municipalities and counties retain all existing authority, if any, to collect fees relating to public roads and rights-of-way from electric utilities or regional transmission organizations, and nothing in this subsection shall alter this authority.

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

The question recurred on the adoption of **Amendment 1** as amended, which was adopted.

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

CS/HB 1891—A bill to be entitled An act relating to public records; amending s. 213.053, F.S.; providing an exemption from public records requirements for information contained in specified documents received by the Department of Revenue in connection with ch. 202, F.S., the Communications Services Tax Simplification Law; authorizing the department to provide certain information relative to said chapter to local governments imposing a local communications services tax; providing for application of confidentiality and penalty provisions to such local governments; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 1893—A bill to be entitled An act relating to trust funds; creating s. 202.193, F.S.; creating the Local Communications Services Tax Clearing Trust Fund within the Department of Revenue; providing for sources of moneys and purposes; providing for annual carryforward of fund balances; providing that the trust fund is exempt from constitutional termination; providing a contingent effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1919—A bill to be entitled An act relating to trust funds; creating s. 282.23, F.S.; creating the Technology Enterprise Trust Fund within the Department of Management Services; providing for sources of funds and purposes; providing for creation of a reserve account; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1943—A bill to be entitled An act relating to the deduction and collection of a bargaining agent's dues and uniform assessments; amending s. 447.303, F.S.; eliminating a right of certain bargaining agents to have certain dues and assessments deducted and collected by an employer from certain employees; providing legislative findings and intent; providing that the deduction and collection of certain dues and assessments is a proper subject of collective bargaining; providing requirements and limitations; providing for accounting of funds; providing for enforcement; providing an effective date.

—was read the second time by title.

Representative(s) Brummer offered the following:

(Amendment Bar Code: 170395)

Amendment 1—On page 2, line 9 through page 3, line 10, remove from the bill: all of said lines

and insert in lieu thereof: *(2)(a) The Legislature acknowledges that Florida is a right to work state as guaranteed by s. 6, Art. I of the State Constitution, which provides employees the right to bargain collectively. However, the State Constitution does not require an employer to deduct and collect a bargaining agent's dues and uniform assessments from an employee's salary. Furthermore, the Legislature in implementing s. 6, Art. I of the State Constitution, has declared that it is the public policy of this state to neither encourage nor discourage participation in a certified employee organization. The current statutory right of a collective bargaining agent to have its dues and uniform assessments deducted from an employee's salary is inconsistent with this policy because it assumes a non-neutral position regarding membership in a certified employee organization. By statutorily requiring an employer to deduct a collective bargaining agent's dues and assessments, the state facilitates the financial support of that organization not only for its collective bargaining functions but for whatever political or social causes that organization chooses to support. The payroll deduction process does not require the identification of how the money deducted will be utilized. Other voluntary payroll deductions are clear on their face as to the amount and purpose of the deductions. In addition, other payroll deductions are not encumbered with the legal complexities surrounding collective bargaining rights and this state's policy of neutrality regarding membership in a certified employee organization. Morever, the First Amendment to the United States Constitution guarantees a person freedom of association, and included in that right a person may not be compelled to financially support a social cause or a political candidate or cause. To the extent members of a certified employee organization are uninformed regarding the use of their payroll deducted dues and assessments, unaware of their rights to be refunded any portion of such dues or assessments used for political or social purposes to which they do not agree, or are prevented or inhibited from exercising their associational rights, directly or indirectly, for whatever reason and from whatever source, then the state's participation in their payroll deduction impinges on those employees' First Amendment rights.*

The Legislature finds that instructional personnel represent the largest collective bargaining unit in this state. Furthermore, the Legislature recognizes and finds that teacher shortages in this state have reached critical proportions and anticipates that Florida will need an additional 162,000 teachers over the next 10 years to meet the challenges of this state's growing student population. Attracting new teachers as well as retaining existing teachers is a priority for this Legislature. Furthermore, the Legislature finds that this state has a substantial and compelling interest in protecting the First Amendment rights of instructional personnel, and that the state's ability to recruit and retain instructional personnel should be enhanced by empowering instructional personnel to pursue their First Amendment rights and to make informed decisions regarding their political and social participation within the context of exercising their collective bargaining rights. The Legislature also finds that, as a result of the recent merger and industry consolidation of the collective bargaining agents that represented instructional personnel as defined in s. 228.041, a monopoly in such services has been created in this state. Accordingly, this state must redouble its efforts to remain neutral and thereby not empower or detract from that collective bargaining agent's representational role, or from the employees' ability to be represented in the collective bargaining process by whomever they so choose.

Because of these facts and trends, the Legislature finds that the current status of instructional personnel constitutes a set of circumstances distinct and unique from any other area of public employment within this state. Therefore, the Legislature finds that with regard to instructional personnel, the deduction and collection of the certified

bargaining agent's dues and uniform assessments should not be mandated by the Legislature but should be a permissive subject of collective bargaining, as otherwise restricted by this act. The Legislature further finds that the restrictions imposed by this act do not interfere with the ability of instructional personnel to be a member of a certified labor organization or to contribute directly to that organization in support of its non-collective bargaining activities.

Rep. Brummer moved the adoption of the amendment, which failed of adoption.

Representative(s) Brummer offered the following:

(Amendment Bar Code: 102093)

Amendment 2—On page 16, line 11,
remove from the bill: all of said line

and insert in lieu thereof:

Section 13. This act shall take effect July 1, 2001.

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

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

Consideration of **HB 201** was temporarily postponed under Rule 11.10.

CS/HB 427 was taken up. On motion by Rep. Fiorentino, the rules were waived and CS for CS for CS for SB 446 was substituted for CS/HB 427. Under Rule 5.15, the House bill was laid on the table and—

CS for CS for CS for SB 446—A bill to be entitled An act relating to homelessness; amending s. 228.041, F.S.; redefining the term "homeless child"; amending ss. 232.03, 232.0315, 232.032, F.S.; revising the deadline for submission of documents for school registration; amending s. 420.5087, F.S.; relating to the State Apartment Incentive Loan Program; revising the requirements for qualifying to participate in the program; adding the homeless to the list of eligible tenant groups; amending s. 420.5092, F.S.; increasing the amount of revenue bonds the Florida Housing Finance Corporation may issue for the corporation's guarantee fund; amending s. 420.511, F.S.; revising reporting requirements of the Florida Housing Finance Corporation; amending s. 420.609, F.S.; relating to the Affordable Housing Study Commission; revising the membership of the commission; requiring the commission to analyze how to address the acute need for housing for the homeless; amending s. 420.621, F.S.; redefining the term "homeless"; creating s. 420.622, F.S.; creating the State Office on Homelessness within the Department of Children and Family Services; authorizing the Governor to appoint an executive director for the State Office on Homelessness; creating the Council on Homelessness; providing for council membership; providing for council members to be reimbursed for travel expenses; providing for grants for homeless assistance continuums of care; providing grants for homeless housing assistance; prescribing duties and responsibilities of the State Office of Homelessness; requiring the Department of Children and Family Services to adopt rules with input from the Council on Homelessness; requiring an annual report; amending s. 420.623, F.S.; revising the list of organizations that may participate in local homeless coalitions; revising the functions of local homeless coalitions; creating s. 420.624, F.S.; establishing guidelines for local homeless continuum of care; creating s. 420.626, F.S.; establishing guidelines for discharging persons at risk for homelessness from facilities serving persons with mental illness or substance abuse; amending s. 420.9075, F.S.; expanding the list of partners that counties and cities are encouraged to involve in developing housing assistance plans; amending s. 445.009, F.S.; revising regional workforce boards' one-stop delivery system; requiring the Office of Program, Policy Analysis, and Government Accountability to report on homelessness; dedicating December 21 as the Homeless Persons' Memorial Day; providing an appropriation for Challenge Grants; providing an appropriation for positions in local homeless coalitions; providing appropriations for the Department of Children and Family Services; providing an effective date.

—was read the second time by title.

Representative(s) Fiorentino offered the following:

(Amendment Bar Code: 760819)

Amendment 1—On page 31, line 13, through page 32, line 13,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 18. *(1) Implementation of the challenge grants created in s. 420.622, Florida Statutes, and associated administrative costs incurred by the State Office on Homelessness and the Council on Homelessness is contingent on available appropriations in the annual General Appropriation Act for such purpose.*

(2) Implementation of the grant-in-aid program specified in s. 420.625, Florida Statutes, within the Department of Children and Family Services to support one position in each of the 25 local homeless coalitions in Florida is contingent on available appropriations in the annual General Appropriation Act for such purpose.

(3) Increase in funding for the grant-in-aid program specified in s. 420.625, Florida Statutes, within the Department of Children and Family Services, is contingent on available appropriations in the annual General Appropriation Act for such purpose.

(4) The sum of $5 million is transferred for fiscal year 2001-2002 from the Local Government Housing Trust Fund in the Florida Housing Finance Corporation to the Administrative Trust Fund within the Department of Children and Family Services. The sum of $5 million in fixed capital outlay is hereby appropriated to the State Office on Homelessness within the Department of Children and Family Services from the Administrative Trust Fund for fiscal year 2001-2002 to fund homeless housing assistance grants.

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

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

HB 1943—A bill to be entitled An act relating to the deduction and collection of a bargaining agent's dues and uniform assessments; amending s. 447.303, F.S.; eliminating a right of certain bargaining agents to have certain dues and assessments deducted and collected by an employer from certain employees; providing legislative findings and intent; providing that the deduction and collection of certain dues and assessments is a proper subject of collective bargaining; providing requirements and limitations; providing for accounting of funds; providing for enforcement; providing an effective date.

—was taken up, having been read the second time, and amended, earlier today.

Reconsideration

On motion by Rep. Melvin, the House agreed to reconsider the vote by which **Amendment 1** failed of adoption.

The vote was:

Session Vote Sequence: 201

Yeas—64

Alexander	Bilirakis	Dockery	Harrington
Allen	Bowen	Farkas	Hart
Argenziano	Brown	Fasano	Hogan
Arza	Brummer	Fiorentino	Johnson
Attkisson	Byrd	Flanagan	Jordan
Atwater	Cantens	Garcia	Kallinger
Ball	Carassas	Gardiner	Kilmer
Baxley	Clarke	Gibson	Kottkamp
Bense	Davis	Green	Lacasa
Benson	Diaz de la Portilla	Haridopolos	Littlefield
Berfield	Diaz-Balart	Harrell	Lynn

Mack	Melvin	Paul	Russell
Mahon	Miller	Pickens	Simmons
Mayfield	Murman	Prieguez	Spratt
Maygarden	Needelman	Ross	Wallace
Mealor	Negron	Rubio	Waters

Nays—49

Ausley	Frankel	Kosmas	Siplin
Baker	Gannon	Kravitz	Slosberg
Barreiro	Gelber	Lee	Smith
Bean	Gottlieb	Lerner	Sobel
Bendross-Mindingall	Greenstein	Machek	Sorensen
Bennett	Harper	McGriff	Stansel
Betancourt	Henriquez	Meadows	Weissman
Brutus	Heyman	Rich	Wiles
Bucher	Holloway	Richardson	Wilson
Bullard	Jennings	Ritter	Wishner
Cusack	Joyner	Romeo	
Detert	Justice	Ryan	
Fields	Kendrick	Seiler	

Votes after roll call:
Yeas—Kyle

The question recurred on the adoption of **Amendment 1**.

Rep. Kosmas suggested the absence of a quorum. A quorum was present [Session Vote Sequence: 202].

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

The vote was:

Session Vote Sequence: 203

Yeas—59

The Chair	Brown	Harrell	Miller
Andrews	Brummer	Harrington	Murman
Arza	Byrd	Hart	Needelman
Attkisson	Cantens	Johnson	Negron
Atwater	Carassas	Kallinger	Paul
Baker	Clarke	Kilmer	Prieguez
Ball	Diaz de la Portilla	Kottkamp	Ross
Baxley	Farkas	Kyle	Rubio
Bean	Fasano	Littlefield	Russell
Bennett	Fiorentino	Lynn	Simmons
Bense	Flanagan	Mack	Spratt
Benson	Gardiner	Mahon	Trovillion
Berfield	Gibson	Maygarden	Wallace
Bilirakis	Green	Mealor	Waters
Bowen	Haridopolos	Melvin	

Nays—53

Alexander	Gannon	Kendrick	Seiler
Allen	Garcia	Kosmas	Siplin
Ausley	Gelber	Kravitz	Slosberg
Barreiro	Gottlieb	Lee	Smith
Bendross-Mindingall	Greenstein	Lerner	Sobel
Betancourt	Harper	Machek	Sorensen
Brutus	Henriquez	McGriff	Stansel
Bucher	Heyman	Meadows	Weissman
Bullard	Hogan	Pickens	Wiles
Cusack	Holloway	Rich	Wilson
Davis	Jennings	Richardson	Wishner
Detert	Jordan	Ritter	
Fields	Joyner	Romeo	
Frankel	Justice	Ryan	

Votes after roll call:
Nays—Mayfield

On motion by Rep. Brummer, the House reconsidered the vote by which **Amendment 2** was adopted.

The question recurred on the adoption of **Amendment 2**.

Further consideration of **Amendment 2** was temporarily postponed under Rule 11.10.

Amendment 2 was abandoned.

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

CS/CS/HB 1661 was taken up. On motion by Rep. Mealor, the rules were waived and CS for CS for SB 1180 was substituted for CS/CS/HB 1661. Under Rule 5.15, the House bill was laid on the table and—

CS for CS for SB 1180—A bill to be entitled An act relating to scholarships for students with disabilities; amending s. 229.05371, F.S.; creating the scholarship program for students with disabilities; providing for eligibility; establishing obligations of school districts; establishing criteria for private school eligibility; establishing obligations for program participants; providing for funding; authorizing the State Board of Education to adopt rules; providing an effective date.

—was read the second time by title.

Representative(s) Mealor and Melvin offered the following:

(Amendment Bar Code: 965965)

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

and insert in lieu thereof:

Section 1. Section 229.05371, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 229.05371, F.S., for present text.)

229.05371 The John M. McKay Scholarships for Students with Disabilities Program.—There is established a program that is separate and distinct from the Opportunity Scholarship Program and is named the John M. McKay Scholarships for Students with Disabilities Program, pursuant to this section.

(1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH DISABILITIES PROGRAM.—The John M. McKay Scholarships for Students with Disabilities Program is established to provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a private school of choice, for students with disabilities for whom an individual education plan has been written in accordance with rules of the Commissioner of Education or the State Board of Education. Students with disabilities include K-12 students who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, hospitalized or homebound, or autistic.

(2) SCHOLARSHIP ELIGIBILITY.—The parent of a public school student with a disability who is dissatisfied with the student's progress may request and receive from the state a John M. McKay Scholarship for the child to enroll in and attend a private school in accordance with this section if:

(a) By assigned school attendance area or by special assignment, the student has spent the prior school year in attendance at a Florida public school. Prior school year in attendance means that the student was enrolled and reported by a school district for funding during the preceding October and February Florida Education Finance Program surveys in kindergarten through grade 12; and

(b) The parent has obtained acceptance for admission of the student to a private school that is eligible for the program under subsection (4) and has notified, in writing, the school district of the request for a scholarship at least 60 days prior to the date of the first scholarship payment.

This section does not apply to a student who is enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs. For purposes of continuity of educational choice, the scholarship shall remain in force until the student returns to a public school or graduates from high school. However, at any time, the student's parent may remove the student from the private school and place the student in another private school that is eligible for the program under subsection (4) or in a public school as provided in subsection (3).

(3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION OBLIGATIONS.—

(a) A school district shall timely notify the parent of the student of all options available pursuant to this section and offer that student's parent an opportunity to enroll the student in another public school within the district. The parent is not required to accept this offer in lieu of requesting a John M. McKay Scholarship to a private school. However, if the parent chooses the public school option, the student may continue attending a public school chosen by the parent until the student graduates from high school. If the parent chooses a public school consistent with the school board's choice plan under s. 228.057, the school district will provide transportation to the public school selected by the parent. The parent is responsible to provide transportation to a public school chosen that is not consistent with the school board's choice plan under s. 228.057.

(b) For a student with disabilities who does not have a matrix of services under s. 236.025, the school district must complete a matrix that assigns the student to one of the levels of service as they existed prior to the 2000-2001 school year. The school district must complete the matrix of services for any student who is participating in the John M. McKay Scholarships for Students with Disabilities Program and must notify the Department of Education of the student's matrix level within 30 days after receiving notification by the student's parent of intent to participate in the scholarship program. The Department of Education shall notify the private school of the amount of the scholarship within 10 days after receiving the school district's notification of the student's matrix level.

(c) If the parent chooses the private school option and the student is accepted by the private school pending the availability of a space for the student, the parent of the student must notify the school district 60 days prior to the first scholarship payment and before entering the private school in order to be eligible for the scholarship when a space becomes available for the student in the private school.

(d) The parent of a student may choose, as an alternative, to enroll the student in and transport the student to a public school in an adjacent school district which has available space and has a program with the services agreed to in the student's individual education plan already in place, and that school district shall accept the student and report the student for purposes of the district's funding pursuant to the Florida Education Finance Program.

(e) For a student in the district who participates in the John M. McKay Scholarships for Students with Disabilities Program whose parent requests that the student take the statewide assessments under s. 229.57, the district shall provide locations and times to take all statewide assessments.

(f) A school district must notify the Department of Education within 10 days after it receives notification of a parent's intent to apply for a scholarship for a student with a disability.

(4) PRIVATE SCHOOL ELIGIBILITY.—To be eligible to participate in the John M. McKay Scholarships for Students with Disabilities Program, a private school must be a Florida private school, may be sectarian or nonsectarian, and must:

(a) Demonstrate fiscal soundness by being in operation for 1 school year or provide the Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the department.

(b) Notify the Department of Education of its intent to participate in the program under this section by May 1 of the school year preceding the school year in which it intends to participate. The notice must specify the grade levels and services that the private school has available for students with disabilities who are participating in the scholarship program.

(c) Comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.

(d) Meet state and local health and safety laws and codes.

(e) Be academically accountable to the parent for meeting the educational needs of the student.

(f) Employ or contract with teachers who hold baccalaureate or higher degrees, or have at least 3 years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.

(g) Comply with all state laws relating to general regulation of private schools.

(h) Adhere to the tenets of its published disciplinary procedures prior to the expulsion of a scholarship student.

(5) OBLIGATION OF PROGRAM PARTICIPANTS.—

(a) A parent who applies for a John M. McKay Scholarship is exercising his or her parental option to place his or her child in a private school. The parent must select the private school and apply for the admission of his or her child.

(b) The parent must have requested the scholarship at least 60 days prior to the date of the first scholarship payment.

(c) Any student participating in the scholarship program must remain in attendance throughout the school year, unless excused by the school for illness or other good cause, and must comply fully with the school's code of conduct.

(d) The parent of each student participating in the scholarship program must comply fully with the private school's parental involvement requirements, unless excused by the school for illness or other good cause.

(e) If the parent requests that the student participating in the scholarship program take all statewide assessments required pursuant to s. 229.57, the parent is responsible for transporting the student to the assessment site designated by the school district.

(f) Upon receipt of a scholarship warrant, the parent to whom the warrant is made must restrictively endorse the warrant to the private school for deposit into the account of the private school.

(g) A participant who fails to comply with this subsection forfeits the scholarship.

(6) SCHOLARSHIP FUNDING AND PAYMENT.—

(a)1. The maximum scholarship granted for an eligible student with disabilities shall be a calculated amount equivalent to the base student allocation in the Florida Education Finance Program multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by the district cost differential.

2. In addition, a share of the guaranteed allocation for exceptional students shall be determined and added to the calculated amount. The calculation shall be based on the methodology and the data used to calculate the guaranteed allocation for exceptional students for each district in chapter 2000-166, Laws of Florida. The calculation shall be based on the student's grade, matrix level of services, and the difference between the 2000-2001 basic program and the appropriate level of

services cost factor, multiplied by the 2000-2001 base student allocation and the 2000-2001 district cost differential for the sending district. Also, the calculated amount shall include the per-student share of Supplemental Academic Instruction funds, instructional materials funds, technology funds, and other categorical funds as provided for such purposes in the General Appropriations Act.

(b) The amount of the John M. McKay Scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. The amount of any assessment fee required by the participating private school may be paid from the total amount of the scholarship.

(c) If the participating private school requires partial payment of tuition prior to the start of the academic year to reserve space for students admitted to the school, that partial payment may be paid by the Department of Education prior to the first quarterly payment of the year in which the John M. McKay Scholarship is awarded, up to a maximum of $1,000, and deducted from subsequent scholarship payments. If a student decides not to attend the participating private school, the partial reservation payment must be returned to the Department of Education by the participating private school. There is a limit of one reservation payment per student per year.

(d) The school district shall report all students who are attending a private school under this program. The students with disabilities attending private schools on John M. McKay Scholarships shall be reported separately from other students reported for purposes of the Florida Education Finance Program.

(e) Following notification on July 1, September 1, December 1, or February 1 of the number of program participants, the Department of Education shall transfer, from General Revenue funds only, the amount calculated under paragraph (b) from the school district's total funding entitlement under the Florida Education Finance Program and from authorized categorical accounts to a separate account for the scholarship program for quarterly disbursement to the parents of participating students. When a student enters the scholarship program, the Department of Education must receive all documentation required for the student's participation, including the private school's and student's fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student. The Department of Education may not make any retroactive payments.

(f) Upon proper documentation reviewed and approved by the Department of Education, the Comptroller shall make scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 15 of each academic year in which the scholarship is in force. The initial payment shall be made after Department of Education verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent and mailed by the Department of Education to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(7) LIABILITY.—No liability shall arise on the part of the state based on the award or use of a John M. McKay Scholarship.

(8) RULES.—The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section. However, the inclusion of eligible private schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

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

And the title is amended as follows:

On page ,
remove from the title of the bill:

and insert in lieu thereof: An act relating to scholarships for students with disabilities; amending s. 229.05371, F.S.; creating the John M. McKay Scholarships for Students with Disabilities Program; providing for eligibility; establishing obligations of school districts and the Department of Education; establishing criteria for private school eligibility; establishing obligations of program participants; providing for funding and payment; limiting liability of the state; authorizing the State Board of Education to adopt rules; providing an effective date.

Rep. Mealor moved the adoption of the amendment.

Representative(s) Rich and Kravitz offered the following:

(Amendment Bar Code: 490887)

Amendment 1 to Amendment 1—On page 2, between lines 13 and 14

insert: *(a) The student's academic progress in at least two areas has not met expected levels for the previous year, as determined by the student's individual education plan.*

Rep. Rich moved the adoption of the amendment to the amendment, which failed of adoption.

Representative(s) Rich and Kravitz offered the following:

(Amendment Bar Code: 873999)

Amendment 2 to Amendment 1—On page 5, between lines 4 and 5

insert: *(a) Accept the responsibility to develop and maintain the student's individual education plan and hold harmless the local school district for administration and implementation of the individual education plan.*

Rep. Rich moved the adoption of the amendment to the amendment, which failed of adoption.

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

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

HB 201 was taken up. On motion by Rep. Rubio, the rules were waived and CS for SB 800 was substituted for HB 201. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 800—A bill to be entitled An act relating to the disposition of traffic fines; amending s. 318.21, F.S.; revising requirements for the use of funds collected from moving traffic violations; requiring that such funds be used to fund automation for law enforcement agencies in certain counties in which a municipality has been declared to be in a state of financial emergency; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

Motions Relating to Committee or Council References

On motion by Rep. Harrell, agreed to by two-thirds vote, CS/HB 1015 was withdrawn from the Committee on Education Appropriations and the Council for Lifelong Learning and placed on the Calendar of the House.

On motion by Rep. Harrell, the House moved to the consideration of CS/HB 1015.

CS/HB 1015 was taken up. On motion by Rep. Harrell, the rules were waived and CS for SB 1018 was substituted for CS/HB 1015. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 1018—A bill to be entitled An act relating to prevention and amelioration of learning problems and learning disabilities in young children; authorizing a 3-year demonstration program to be called Learning Gateway; creating a steering committee; providing for

membership and appointment of steering committee members; establishing duties of the steering committee; authorizing demonstration projects in three counties; authorizing designated agencies to share confidential information with Learning Gateway programs; amending s. 228.093, F.S.; providing access to student records by Learning Gateway programs and the Learning Gateway steering committee; providing for funding; providing an effective date.

—was read the second time by title.

Representative(s) Fiorentino, Harrell, Byrd, Melvin, Farkas, Bean, and Meadows offered the following:

(Amendment Bar Code: 374349)

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

and insert in lieu thereof:

Section 1. Section 240.5311, Florida Statutes, is created to read:

240.5311 Learning Gateway Project.—

(1) There is created the Learning Gateway Project to provide grants to eligible universities to establish an integrated approach for health care providers and parents to lessen the effects of learning disabilities for children through prevention, early identification, early education, and appropriate intervention. Parental consent shall be required for all services provided pursuant to the Learning Gateway Project, including initial contact and further referral for evaluation and services. The selected universities shall form a statewide consortium and shall select a university with a medical program to serve as lead university for the consortium.

(2) The Learning Gateway Project shall:

(a) Be administered by the Department of Education to provide grants to eligible state universities for the purpose of developing a statewide catalog of programs, resources, and funds that assist children with learning disabilities. The state universities identified in the Learning Gateway Project shall work collaboratively to develop this project and use the expertise, resources, faculty, and students within the universities to develop the project. Under the direction of the Learning Gateway Project, the participating universities may use their students to design brochures, perform research, collect data on community resources and programs, and develop and maintain a website, through coordination with the State Technology Office, to give parents, teachers, and practitioners information about early warning signs of learning disabilities, Learning Gateway Centers, and community-based programs.

(b) Work collaboratively with representatives of state and local agencies and private programs to develop a comprehensive list of regional providers.

(c) Identify the factors that interfere with or inhibit normal development and learning. The Learning Gateway Project shall bring together research that integrates the disciplines relevant to the diagnosis, causes, treatment, and intervention of early learning disabilities.

(d) Provide physicians, health care personnel, and school personnel with medical and nonmedical intervention strategies that help identify such factors as diet, noise, environmental contaminants and allergies which inhibit learning. Such information shall be prepared so that it can be appropriately presented as part of routine clinic sessions for immunization visits and visits under the "Special Supplemental Nutrition Program for Women, Infants, and Children" (WIC) under s. 383.011 and other well-child appointments.

(e) Identify the elements of an effective research-based curriculum for each learning disability.

(f) Develop a model system of care, through the establishment of regional Learning Gateway Centers, that builds upon, integrates, and identifies the gaps in existing services.

(g) Develop two brochures and a website, in coordination with the State Technology Office, to distribute information.

1. One brochure shall be designed to educate parents and caretakers about the importance of prenatal care and nutrition and shall identify the early warning signs of disabilities that may lead to learning disabilities and developmental delays. This brochure shall be distributed to parents through early childhood programs administered by the Department of Education, the Department of Health, the Florida Partnership for School Readiness, the Agency for Workforce Innovation, the Department of Children and Family Services, the Agency for Health Care Administration, the Department of Juvenile Justice, the Department of Corrections, and the Learning Development and Evaluation Center of Florida Agricultural and Mechanical University.

2. One brochure shall be developed to provide physicians, parents, and teachers information on the Learning Gateway Project and the Learning Gateway Centers, as well as all the programs, facilities, resources, and services available within each identified service area.

3. The website shall provide ready access for parents, physicians, teachers, and caretakers to information regarding the Learning Gateway Project and the Learning Gateway Centers for the purpose of referral and information on the learning disabilities addressed by the project. It shall itemize the resources available for intervention, diagnosis, and treatment, as well as regional listings of available related services and providers, indexed by learning disability.

(3)(a) The Learning Gateway Centers shall develop a network of all available services within each identified service area and submit the list and description to the Learning Gateway Project for inclusion in the website for the programs available to parents, physicians, and other health care providers. The Learning Gateway Centers shall use the list to refer parents to programs or facilities appropriate to meet their child's needs. For the purpose of serving areas of the state where no services currently exist or where the private providers lack the expertise to diagnose and provide strategies for improved learning, each participating university may use Learning Gateway Project funds to expand the current services provided through the university to set up clinics on site or at other locations to diagnose learning disabilities while providing students an opportunity to intern. Participating universities with comprehensive schools that can diagnose difficult problems may expand existing clinics to serve as a resource for children with specialized problems and their parents when services are not available from public or private local providers within the regional Learning Gateway Center. The regional Learning Gateway Centers may provide services to parents, physicians, and other health care providers where there is a gap in the service available from public and private providers. The Learning Gateway Centers may provide direct service to children who do not receive coverage under state, federal, or private insurance or may contract for specialty services. Centers may also provide for services to children whose parents are dissatisfied with their present services.

(b) Learning Gateway Centers shall be the single point of access for screening, assessment, integration of services, linkages of providers, referrals, and services required to address the needs of the children and families, using faculty, graduate students, and other professionals as needed. The Learning Gateway Centers shall provide to parents and physicians a one-stop referral center to provide accurate information on public and private professionals who can assist in determining the physical, emotional, nutritional, environmental, and mental factors that may be interfering with learning and normal development.

(c) Staff of the Learning Gateway Centers must be knowledgeable about child development, early identification of learning disabilities, access to needed health care services and health insurance coverage for such services, and state and federal funds available for services in the local area. If the following services are not provided by existing service systems, with the permission of the parent, the Learning Gateway Centers shall:

1. Conduct appropriate screening or refer for such services.

2. Develop family resource plans.

3. Make referrals for needed services and assist families in the application process.

4. Provide educational and training classes for parents, teachers, and caretakers.

(d) The specific services and supports provided by the Learning Gateway Centers may include:

1. Speech and language therapy that is appropriate.

2. Comprehensive medical screening and referral.

3. Referral as needed for family therapy, other mental health services, and treatment programs.

4. Therapy for learning differences in reading and math, and attention to subject material for children in grades K-3.

5. Referral for services pursuant to Part B or Part C of the Individuals with Disabilities Education Act, as required.

(e) The Learning Gateway Centers shall designate a central information and referral access phone number for each center, to be used to improve access to local supports and services for children and their families.

(f) When results of screening suggest developmental problems, potential learning problems, or learning disabilities, the intervention program, with permission of the parent, shall refer the child to the regional Learning Gateway Center for coordination of further assessment. The Learning Gateway Center shall make referrals to the appropriate entities within the service system.

(g) The Learning Gateway Centers shall provide regional training and updates concerning effective instructional and behavioral practices and interventions based on advances in the field and for encouraging researchers to regularly guide practitioners in designing and implementing research-based practices.

(4) By January 2003, the Learning Gateway Project shall report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Commissioner of Education on the progress, success, and integration of services; the number, types, and outcomes of children served by the Learning Gateway Centers; and the number and types of referrals made through the project.

(5) The Learning Gateway Project must develop a comprehensive list of services and funding sources available to provide services for children. Relevant state agencies shall assist the Learning Gateway Project in securing state and federal waivers as appropriate.

(6) This project shall be implemented subject to the General Appropriations Act.

Section 2. *By October 15, 2001, the Florida Department of Education shall finalize all administrative rule revisions necessary to properly implement the 1997 amendments to the Individuals with Disabilities Education Act.*

Section 3. *By October 15, 2001, the Florida Department of Education shall report to the Governor, the Speaker of the House of Representatives, and the President of the Senate the additional rule authority it needs, if any, to implement the Individuals with Disabilities Education Act.*

Section 4. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2
remove the entire title from the bill

and insert in lieu thereof: An act relating to learning disabilities in young children; creating s. 240.5311, F.S.; creating the Learning Gateway Project to provide grants to universities to establish a statewide consortium to address learning disabilities; providing for administration of the project; providing project functions; providing for regional Learning Gateway Centers and specifying services of the centers; requiring a report; requiring an appropriation; requiring the Department of Education to finalize all rules by a date certain to implement the Individuals with Disabilities Education Act; requiring the Department of Education to report by a specific date on needed rule authority to implement the Individuals with Disabilities Education Act; providing an effective date.

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

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

CS/CS/HB 1193—A bill to be entitled An act relating to education; amending s. 121.091, F.S.; eliminating the requirement that certain instructional personnel make an election to participate in the Deferred Retirement Option Program within 12 months after reaching normal retirement date; amending s. 228.041, F.S.; revising the definition of "other instructional staff" to include adjunct educators; amending s. 230.23, F.S.; authorizing a review by a principal prior to reassigning a teacher; deleting provisions relating to salary supplements provided to teachers selected to teach at certain low-performing schools; amending s. 231.095, F.S.; revising provisions relating to assignment of teaching duties out-of-field; amending s. 231.096, F.S.; requiring assistance in accessing resources for teachers teaching out-of-field; amending s. 231.15, F.S.; deleting provision of part-time certificate for athletic coach; creating an athletic coaching certificate; amending s. 231.17, F.S.; authorizing continued employment under specified circumstances; authorizing the use of an approved alternative certification program by a school district other than the school district that developed the program, upon notification to the department and approval of any modifications; creating s. 231.1726, F.S.; providing for certification of adjunct educators; amending s. 231.262, F.S.; requiring each district school board to develop policies and procedures relating to the reporting of complaints against teachers and administrators; providing criteria for policies and procedures; charging the superintendent of schools with knowledge of such policies and procedures; specifying conditions for penalty against superintendent; authorizing the temporary suspension of a teaching certificateholder pending the completion of proceedings in order to protect the health, safety, and welfare of students; correcting cross references to conform; amending s. 231.36, F.S.; including adjunct educators in provisions relating to contracts with instructional staff; requiring a school board to recognize and accept years of satisfactory performance for purposes of pay; providing an exemption; amending s. 231.6135, F.S.; exempting regional educational consortia from certain requirements to become eligible for grants to create professional development academies; amending s. 231.625, F.S.; requiring the Department of Education to develop and implement a system for posting teaching vacancies, establish a database of teacher applicants, develop a long-range plan for educator recruitment and retention, and identify best practices for retaining high-quality teachers; deleting requirements that the department develop standardized resumes for teacher applicant data and review and recommend to the Legislature and school districts incentives for attracting teachers to Florida; amending s. 231.700, F.S.; revising the Florida Mentor Teacher School Pilot Program to conform terminology; clarifying requirements for mentor teachers; amending s. 236.08106, F.S.; clarifying requirements relating to the amount of required mentoring or related services for receipt of an Excellent Teaching Program bonus; amending s. 231.261, F.S.; correcting a cross reference; amending ss. 230.2305, 231.045, 231.1725, 231.471, and 232.435, F.S., relating to standards for staff of prekindergarten early intervention programs, periodic criminal history record checks, and employment of specified teachers, part-time teachers, and athletic trainers; revising provisions to include adjunct educators; amending s. 240.529, F.S.; establishing teacher education pilot programs for high-achieving students; providing an effective date.

—was read the second time by title.

Representative(s) Andrews offered the following:

(Amendment Bar Code: 610273)

Amendment 1—On page 12, line 20
remove from the bill: all said lines

and insert in lieu thereof: *resources that may assist teachers who are teaching*

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

Representative(s) Arza offered the following:

(Amendment Bar Code: 305543)

Amendment 2—On page 16, lines 11 through 14,
remove from the bill: all of said lines

and insert in lieu thereof:

used for part-time teaching positions. The intent of this provision is to allow school districts to tap the wealth of talent and expertise represented in Florida's citizens who may wish to teach part-time in a Florida public school by permitting school districts to issue adjunct certificates. Adjunct certificateholders should be used as a strategy to reduce the teacher shortage, thus, adjunct certificateholders should supplement a school's instructional staff, not supplant it. Each school principal shall assign an experienced peer mentor to assist the adjunct teaching certificateholder during the certificateholder's first year of teaching and an adjunct certificateholder may participate in a district's new teacher training program. District school boards shall provide the adjunct

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

Representative(s) Andrews offered the following:

(Amendment Bar Code: 294871)

Amendment 3 (with title amendment)—On page 23, between lines 22 and 23, of the bill

insert: *(l) Develop, in consultation with Workforce Florida, Inc., and the Agency for Workforce Innovation, created pursuant to ss. 445.004 and 20.50, respectively, a plan for accessing and identifying available resources in the state's workforce system for the purpose of enhancing teacher recruitment and retention. The plan shall be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and each school district no later than August 1, 2001.*

And the title is amended as follows:

On page 2, lines 28-30
remove from the title of the bill: all of said lines

and insert in lieu thereof: educator recruitment and retention, identify best practices for retaining high quality teachers, and develop a plan in consultation with Workforce Florida, Inc., and the Agency for Workforce Innovation for teacher recruitment and retention;

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

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

Consideration of **HB 1535** was temporarily postponed under Rule 11.10.

HB 1655—A bill to be entitled An act relating to transferring and reassigning divisions, functions, and responsibilities of the Department of Labor and Employment Security; providing for a type two transfer of the Division of Workers' Compensation and the Office of the Judges of Compensation Claims to the Department of Insurance; providing for a type two transfer of workers' compensation medical services to the Agency for Health Care Administration; providing for a type two transfer of workers' compensation rehabilitation and reemployment services to the Department of Education; providing for a type two transfer of the administration of child labor laws to the Department of Business and Professional Regulation; providing for a type two transfer of certain functions of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security relating to labor organizations and migrant and farm labor registration to the Department of Business and Professional Regulation; providing for a type two transfer of other workplace regulation functions to the Department of Business and Professional Regulation; providing for the transfer of the Unemployment Appeals Commission to the Agency for Workforce Innovation by a type two transfer; providing for the transfer of the Public Employees Relations Commission to the Department of Management Services by a type two transfer; providing for the transfer of the Office of Information Systems to the State Technology Office by a type two transfer; authorizing the Department of Banking and Finance, in conjunction with the Office of the Attorney General, to use unexpended funds to settle certain claims; providing for the continuation of contracts or agreements of the Department of Labor and Employment Security; providing for a successor department, agency, or entity to be substituted for the Department of Labor and Employment Security as a party in interest in pending proceedings; exempting specified state agencies, on a temporary basis, from provisions relating to procurement of property and services and leasing of space; authorizing specified state agencies to develop temporary emergency rules relating to the implementation of this act; amending s. 20.13, F.S.; providing for a Division of Workers' Compensation in the Department of Insurance; amending s. 440.02, F.S.; providing a definition for the term "agency"; conforming definitions of "department" and "division" to the transfer of the Division of Workers' Compensation to the Department of Insurance; amending ss. 440.102 and 440.125, F.S.; conforming agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance; amending s. 440.13, F.S., relating to medical services and supplies under the workers' compensation law; reassigning certain functions from the Division of Workers' Compensation to the Agency for Health Care Administration; conforming agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance; amending s. 440.15, F.S.; providing for the agency to participate in the establishment and use of a uniform permanent impairment rating schedule; correcting a cross reference; amending s. 440.207, F.S.; conforming a departmental reference; amending s. 440.25, F.S.; conforming agency references to reflect the transfer of the Division of Workers' Compensation to the Department of Insurance; amending s. 440.385, F.S.; deleting obsolete provisions; conforming departmental references relating to the Florida Self-Insurance Guaranty Association, Inc.; correcting a cross reference; amending s. 440.44, F.S.; conforming provisions; amending s. 440.4416, F.S.; reassigning the Workers' Compensation Oversight Board to the Department of Insurance; amending s. 440.45, F.S.; reassigning the Office of the Judges of Compensation Claims to the Department of Insurance; amending s. 440.49, F.S.; reassigning responsibility for a report on the Special Disability Trust Fund to the Department of Insurance; amending s. 440.491, F.S.; conforming references based on the transfer of rehabilitation and reemployment services to the Department of Education; amending ss. 440.525 and 440.59, F.S.; conforming agency references to reflect the transfer of programs from the Department of Labor and Employment Security to the Department of Insurance; amending s. 443.012, F.S.; providing for the Unemployment Appeals Commission to be created within the Agency for Workforce Innovation rather than the Department of Labor and Employment Security; conforming provisions; amending s. 443.036, F.S.; conforming the definition of "commission" to the transfer of the Unemployment Appeals Commission to the Agency for Workforce Innovation; amending s. 447.02, F.S.; conforming the definition of "department" to the transfer of the regulation of labor organizations to the Department of Business and Professional Regulation; amending s. 447.203, F.S.; clarifying the definition of professional employee; amending s. 447.205, F.S.; conforming provisions to reflect the transfer of the Public Employees Relations Commission to the Department of Management Services and deleting obsolete provisions; amending s. 447.208, F.S.; clarifying the procedure for appeals, charges, and petitions; amending s. 447.305, F.S., relating to the registration of employee organizations; providing for the Public Employees Relations Commission to share registration information with the Department of Insurance; amending s. 447.307, F.S.; authorizing the commission to modify existing bargaining units; amending s. 447.503, F.S.; specifying procedures when a party fails to appear for a hearing; amending s. 447.504, F.S.; authorizing the commission to stay certain procedures; amending s. 450.012, F.S.; conforming the definition of "department" to the transfer of the regulation of child labor to the Department of Business and Professional

Regulation; amending s. 450.191, F.S., relating to the duties of the Executive Office of the Governor with respect to migrant labor; conforming provisions to changes made by the act; amending s. 450.28, F.S.; conforming the definition of "department" to the transfer of the regulation of farm labor to the Department of Business and Professional Regulation; amending s. 627.0915, F.S.; conforming departmental references to changes made by the act; amending ss. 110.205, 112.19, 112.191, 121.125, 122.03, 238.06, 440.10, 440.104, and 440.14, F.S., to conform; repealing s. 20.171, F.S., relating to establishment and the authority and organizational structure of the Department of Labor and Employment Security; providing for severability; providing an effective date.

—was read the second time by title.

The Committee on State Administration offered the following:

(Amendment Bar Code: 173793)

Amendment 1 (with directory language amendment)—On page 15, between lines 24 and 25

insert:

(3) The division may share any confidential and exempt information received under this chapter with the Agency for Health Care Administration in furtherance of the agency's official duties under 440.13 and 440.134, F.S. The agency shall maintain the confidential and exempt status of the information.

And the directory language is amended as follows:

On page 15, lines 13 and 14,
remove all said lines:

and insert in lieu thereof:

Section 5. Subsection (1) of section 440.125, Florida Statues, is amended and subsection (3) is added to read:

Rep. Clarke moved the adoption of the amendment, which failed of adoption.

The Committee on State Administration offered the following:

(Amendment Bar Code: 480209)

Amendment 2—On page 18, line 16 through page 19 line 17
remove from the bill: all of said lines

and insert in lieu thereof:

(4) NOTICE OF TREATMENT TO CARRIER; FILING WITH DIVISION.—

(a) Any health care provider providing necessary remedial treatment, care, or attendance to any injured worker shall submit treatment reports to the carrier in a format *and on forms* prescribed by the division *in consultation with the agency*. A claim for medical or surgical treatment is not valid or enforceable against such employer or employee, unless, by the close of the third business day following the first treatment, the physician providing the treatment furnishes to the employer or carrier a preliminary notice of the injury and treatment on forms prescribed by the division and, within 15 days thereafter, furnishes to the employer or carrier a complete report, and subsequent thereto furnishes progress reports, if requested by the employer or insurance carrier, at intervals of not less than 3 weeks apart or at less frequent intervals if requested on forms prescribed by the division.

(b) Each medical report or bill obtained or received by the employer, the carrier, or the injured employee, or the attorney for the employer, carrier, or injured employee, with respect to the remedial treatment or care of the injured employee, including any report of an examination, diagnosis, or disability evaluation, must be filed with the Division of Workers' Compensation pursuant to rules adopted by the division *in consultation with the agency*. The health care provider shall also furnish to the injured employee or to his or her attorney, on demand, a copy of his or her office chart, records, and reports, and may charge the injured employee an amount authorized by the division for the copies. Each such health care provider shall provide to the *agency or the* division any additional information about the remedial treatment, care, and attendance that the *agency or the* division reasonably requests.

(c) It is the policy for the administration of the workers' compensation system that there be reasonable access to medical information by all parties to facilitate the self-executing features of the law. Notwithstanding the limitations in s. 456.057 and subject to the limitations in s. 381.004, upon the request of the employer, the carrier, or the attorney for either of them, the medical records of an injured employee must be furnished to those persons and the medical condition of the injured employee must be discussed with those persons, if the records and the discussions are restricted to conditions relating to the workplace injury. Any such discussions may be held before or after the filing of a claim without the knowledge, consent, or presence of any other party or his or her agent or representative. A health care provider who willfully refuses to provide medical records or to discuss the medical condition of the injured employee, after a reasonable request is made for such information pursuant to this subsection, shall be subject by the division to one or more of the penalties set forth in paragraph (8)(b).

Rep. Clarke moved the adoption of the amendment, which failed of adoption.

The Committee on State Administration offered the following:

(Amendment Bar Code: 282129)

Amendment 3—On page 25, line 30 through page 26, line 15
remove from the bill: all of said lines

Rep. Clarke moved the adoption of the amendment, which failed of adoption.

The Committee on State Administration offered the following:

(Amendment Bar Code: 041035)

Amendment 4 (with directory language and title amendments)—On page 52, between lines 5 and 6

insert:

440.591 Administrative procedure; rulemaking authority.—

(1) The division has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter conferring duties upon it *except as otherwise specified in this section*.

(2) The agency shall have the authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of sections 440.13 and 440.134, F.S.

And the directory language is amended as follows:

On page 52, line 6

insert:

Section 18. Section 440.591, Florida Statues, is amended to read:

And the title is amended as follows:

On page 4, line 7,

insert after the semicolon: amending s. 440.591, F.S.; providing rulemaking authority;

Rep. Clarke moved the adoption of the amendment, which failed of adoption.

The Committee on State Administration offered the following:

(Amendment Bar Code: 490363)

Amendment 5 (with directory language amendment)—On page 72, between lines 11 and 12

insert:

All rules promulgated by the Department of Labor and Employment Security and authority thereof relating to the regulation of workers' compensation medical services are transferred to the Agency for Health Care Administration.

And the directory language is amended as follows:

On page 72, line 12

insert:

Section 41. is created to read:

Rep. Clarke moved the adoption of the amendment, which failed of adoption.

The Committee on State Administration offered the following:

(Amendment Bar Code: 313317)

Amendment 6 (with directory language amendment)—On page 57, line 5, through page 58, line 19,
remove from the bill: all of said lines,

And the directory language is amended as follows:

On page 56, lines 18 and 19,
remove: all of said lines,

and insert in lieu thereof:

Section 23. Subsection (1) of section 447.208, Florida Statutes, is amended to read:

Rep. Clarke moved the adoption of the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 325659)

Amendment 7 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *(1) The Division of Workers' Compensation of the Department of Labor and Employment Security is transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, to the Department of Insurance, except as otherwise provided in this section. The transfers to the Department of Insurance shall include all resources, data, records, property, and unexpended balances of appropriations, allocations, or other funds. No personnel are transferred to the Department of Insurance. The employees of the Department of Labor and Employment Security's Division of Workers' Compensation, Office of the Secretary, Office of Administrative Services, and Office of General Counsel employed by the Department of Labor and Employment Security as of March 1, 2001 may be given hiring priority by the Department of Insurance, and at least 300 of these employees shall be offered employment by the Department of Insurance, effective October 1, 2001. To the extent feasible, the positions established by the Department of Insurance will be at pay grades comparable to the positions established by the Department of Labor and Employment Security based on the classification code and specifications of the positions for work to be performed at the Department of Insurance. Offers of employment to the 300 employees must be tendered no later than August 15, 2001. The Department of Labor and Employment Security shall offer, and if accepted provide, job placement assistance to those employees not offered employment by the Department of Insurance. After October 1, 2001, such assistance, upon request, shall be provided to these employees by the Agency for Workforce Innovation. The Department of Insurance shall determine the number of positions needed to administer the provisions of chapter 440, Florida Statutes. The number of positions the department determines is needed may not exceed the number of authorized positions and salary and benefits that was authorized for the Division of Workers' Compensation within the Department of Labor and Employment Security prior to the transfer. Upon transfer of the Division of Workers' Compensation, the number of required positions as determined by the department shall be authorized within the agency. The Department of Insurance is further authorized to reassign, reorganize, or otherwise transfer positions to appropriate administrative subdivisions within the department and to establish such regional offices as are necessary to properly enforce and administer its responsibilities under the Florida Insurance Code and chapter 440, Florida Statutes. The department may also enter into contracts with public or private entities to administer its duties and responsibilities associated with the transfer of the Division of Workers' Compensation. All existing contracts related to those functions that are transferred to the Department of Insurance are subject to cancellation or renewal upon review by the Department of Insurance.*

(2) Three senior attorney positions and one administrative assistant III position, and the related property and unexpended balances of appropriations, allocations, and other funds, are transferred from the Office of General Counsel of the Department of Labor and Employment Security to the Department of Insurance by a type two transfer, as defined in section 20.06(2), Florida Statutes.

(3) The Office of the Judges of Compensation Claims is transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the Division of Administrative Hearings of the Department of Management Services.

(4) Four positions within the Division of Workers' Compensation of the Department of Labor and Employment Security responsible for coding or entering data contained within final orders issued by the judges of compensation claims are transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, to the Office of the Judges of Compensation Claims within the Division of Administrative Hearings of the Department of Management Services.

(5) Ten positions within the Division of Workers' Compensation of the Department of Labor and Employment Security responsible for receiving and preparing docketing orders for the petitions for benefits and for receiving and entering data related to the petitions for benefits are transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, to the Office of the Judges of Compensation Claims within the Division of Administrative Hearings of the Department of Management Services.

(6) Four positions within the Division of Workers' Compensation of the Department of Labor and Employment Security responsible for financial management, accounting, and budgeting for the Office of the Judges of Compensation Claims are transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, to the Office of the Judges of Compensation Claims within the Division of Administrative Hearings of the Department of Management Services.

(7) Twenty-nine full-time equivalent positions from the Division of Workers' Compensation of the Department of Labor and Employment Security and the records, property, and unexpended balances of appropriations, allocations, and other funds related to oversight of medical services in workers' compensation provider relations, dispute and complaint resolution, program evaluation, and data management are transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the Agency for Health Care Administration. However, the claims review functions and three-member panel shall not be so transferred and shall be retained by the Department of Insurance.

(8) All statutory powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Division of Workers' Compensation, Office of Medical Services and Rehabilitation, related to reemployment, training and education, obligations to rehire, and preferred worker requirements, consisting of 98 full-time equivalent positions, are transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the Department of Education.

(9) Except as provided in this section, the records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security which

support the activities and functions of the Division of Workers' Compensation are transferred by a type two transfer as defined in section 20.06(2), Florida Statutes, to the Department of Insurance. The Department of Insurance, in consultation with the Department of Labor and Employment Security, shall determine the number of positions needed for administrative support of the programs within the Division of Workers' Compensation as transferred to the Department of Insurance. The number of administrative support positions that the Department of Insurance determines is needed may not exceed the number of administrative support positions that was authorized for the Department of Labor and Employment Security for this purpose prior to the transfer. Upon transfer of the Division of Workers' Compensation, the number of required administrative support positions as determined by the Department of Insurance shall be authorized within the Department of Insurance.

(10) All the personnel, records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security which support the activities and functions transferred under subsections (7) and (8) to the Department of Education are transferred by a type two transfer as defined in section 20.06(2), Florida Statutes, to the Department of Education.

(11) The records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security which support the activities and functions transferred under subsection (7) to the Agency for Health Care Administration are transferred by a type two transfer as defined in section 20.06(2), Florida Statutes, to the Agency for Health Care Administration.

(12) Effective July 1, 2001, all powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Unemployment Appeals Commission relating to the commission's specified authority, powers, duties, and responsibilities are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Agency for Workforce Innovation.

(13) Effective July 1, 2001, all powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Public Employees Relations Commission relating to the commission's specified authority, powers, duties, and responsibilities are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of Management Services.

(14) Effective July 1, 2001, the Office of Information Systems is transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the State Technology Office.

(15)(a) Effective July 1, 2001, the records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security which support the activities and functions transferred under subsection (12) to the Agency for Workforce Innovation are transferred as provided in s. 20.06(2), Florida Statutes, to the Agency for Workforce Innovation.

(b) Effective July 1, 2001, the records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security which support the activities and functions transferred under subsection (13) to the Department of Management Services are transferred as provided in s. 20.06(2), Florida Statutes, to the Department of Management Services.

(c) Effective July 1, 2001, the records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security which support the activities and functions transferred under subsection (14) to the State Technology Office are transferred as provided in s. 20.06(2), Florida Statutes, to the State Technology Office.

(16) This act does not affect the validity of any judicial or administrative proceeding involving the Department of Labor and Employment Security, which is pending as of the effective date of any transfer under this act. The successor department, agency, or entity responsible for the program, activity, or function relative to the proceeding shall be substituted, as of the effective date of the applicable transfer under this act, for the Department of Labor and Employment Security as a party in interest in any such proceedings.

(17) Effective July 1, 2001, eleven full-time equivalent positions from the Division of Workers' Compensation of the Department of Labor and Employment Security, and the powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds related to the administration of child labor laws under chapter 450, Florida Statutes, are transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the Department of Business and Professional Regulation.

(18) Effective July 1, 2001, thirty full-time equivalent positions from the Compliance and Enforcement Program in the Office of the Secretary and Administrative Services and one senior attorney and one administrative secretary from the Office of General Counsel in the Office of the Secretary and Administrative Services, and the powers, duties, functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds of the Office of the Secretary and Administrative Services of the Department of Labor and Employment Security related to the regulation of labor organizations under chapter 447, Florida Statutes, and the administration of migrant labor and farm labor laws under chapter 450, Florida Statutes, are transferred by a type two transfer, as defined in section 20.06 (2), Florida Statutes, from the Department of Labor and Employment Security to the Department of Business and Professional Regulation.

(19) Effective July 1, 2001, any other powers, duties, functions, rules, records, property, and unexpended balances of appropriations, allocations, and other funds of the Department of Labor and Employment Security not otherwise transferred by this act, relating to workplace regulation and enforcement, including, but not limited to, those under chapter 448, Florida Statutes, are transferred by a type two transfer, as defined in section 20.06(2), Florida Statutes, from the Department of Labor and Employment Security to the Department of Business and Professional Regulation.

(20) Effective July 1, 2001, the records, property, and unexpended balances of appropriations, allocations, and other funds and resources of the Office of the Secretary and Administrative Services of the Department of Labor and Employment Security which support the activities and functions transferred under subsections (17), (18), and (19) to the Department of Business and Professional Regulation are transferred as provided in section 20.06(2), Florida Statutes, to the Department of Business and Professional Regulation.

(21) Notwithstanding any other provision of law, any binding contract or interagency agreement existing on or before October 1, 2001, between the Department of Labor and Employment Security, or an entity or agent of the department, and any other agency, entity, or person shall continue as a binding contract or agreement for the remainder of the term of such contract or agreement with the successor department, agency, or entity responsible for the program, activity, or functions relative to the contract or agreement.

Section 2. Paragraph (k) is added to subsection (2) of section 20.13, Florida Statutes, to read:

20.13 Department of Insurance.—There is created a Department of Insurance.

(2) The following divisions of the Department of Insurance are established:

(k) Division of Workers' Compensation.

Section 3. *Section 20.171, Florida Statutes, is repealed.*

Section 4. Paragraph (l) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(l) All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, positions in the Department of Health, the Department of Children and Family Services, and the Department of Corrections that are assigned primary duties of serving as the superintendent or assistant superintendent, or warden or assistant warden, of an institution; positions in the Department of Corrections that are assigned primary duties of serving as the circuit administrator or deputy circuit administrator; positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices as defined in s. 20.23(3)(d)3. and (4)(d); positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator; ~~those positions described in s. 20.171 as included in the Senior Management Service;~~ and positions in the Department of Health that are assigned the duties of Environmental Administrator, Assistant County Health Department Director, and County Health Department Financial Administrator. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

Section 5. Section 440.015, Florida Statutes, is amended to read:

440.015 Legislative intent.—It is the intent of the Legislature that the Workers' Compensation Law be interpreted so as to assure the quick and efficient delivery of disability and medical benefits to an injured worker and to facilitate the worker's return to gainful reemployment at a reasonable cost to the employer. It is the specific intent of the Legislature that workers' compensation cases shall be decided on their merits. The workers' compensation system in Florida is based on a mutual renunciation of common-law rights and defenses by employers and employees alike. In addition, it is the intent of the Legislature that the facts in a workers' compensation case are not to be interpreted liberally in favor of either the rights of the injured worker or the rights of the employer. Additionally, the Legislature hereby declares that disputes concerning the facts in workers' compensation cases are not to be given a broad liberal construction in favor of the employee on the one hand or of the employer on the other hand, and the laws pertaining to workers' compensation are to be construed in accordance with the basic principles of statutory construction and not liberally in favor of either employee or employer. It is the intent of the Legislature to ensure the prompt delivery of benefits to the injured worker. Therefore, an efficient and self-executing system must be created which is not an economic or administrative burden. The Division of Workers' Compensation *of the Department of Insurance, the Department of Education, and the Agency for Health Care Administration* shall administer the Workers' Compensation Law in a manner *that* ~~which~~ facilitates the self-execution of the system and the process of ensuring a prompt and cost-effective delivery of payments.

Section 6. Subsections (11), (13), and (14) of section 440.02, Florida Statutes, are amended, and subsection (40) is added to that section, to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(11) "Department" means the Department of *Insurance* ~~Labor and Employment Security~~.

(13) "Division" means the Division of Workers' Compensation of the Department of *Insurance* ~~Labor and Employment Security~~.

(14)(a) "Employee" means any person engaged in any employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes, but is not limited to, aliens and minors.

(b) "Employee" includes any person who is an officer of a corporation and who performs services for remuneration for such corporation within this state, whether or not such services are continuous.

1. Any officer of a corporation may elect to be exempt from this chapter by filing written notice of the election with the *department* ~~division~~ as provided in s. 440.05.

2. As to officers of a corporation who are actively engaged in the construction industry, no more than three officers may elect to be exempt from this chapter by filing written notice of the election with the *department* ~~division~~ as provided in s. 440.05.

3. An officer of a corporation who elects to be exempt from this chapter by filing a written notice of the election with the *department* ~~division~~ as provided in s. 440.05 is not an employee.

Services are presumed to have been rendered to the corporation if the officer is compensated by other than dividends upon shares of stock of the corporation which the officer owns.

(c) "Employee" includes a sole proprietor or a partner who devotes full time to the proprietorship or partnership and, except as provided in this paragraph, elects to be included in the definition of employee by filing notice thereof as provided in s. 440.05. Partners or sole proprietors actively engaged in the construction industry are considered employees unless they elect to be excluded from the definition of employee by filing written notice of the election with the *department* ~~division~~ as provided in s. 440.05. However, no more than three partners in a partnership that is actively engaged in the construction industry may elect to be excluded. A sole proprietor or partner who is actively engaged in the construction industry and who elects to be exempt from this chapter by filing a written notice of the election with the *department* ~~division~~ as provided in s. 440.05 is not an employee. For purposes of this chapter, an independent contractor is an employee unless he or she meets all of the conditions set forth in subparagraph (d)1.

(d) "Employee" does not include:

1. An independent contractor, if:

a. The independent contractor maintains a separate business with his or her own work facility, truck, equipment, materials, or similar accommodations;

b. The independent contractor holds or has applied for a federal employer identification number, unless the independent contractor is a sole proprietor who is not required to obtain a federal employer identification number under state or federal requirements;

c. The independent contractor performs or agrees to perform specific services or work for specific amounts of money and controls the means of performing the services or work;

d. The independent contractor incurs the principal expenses related to the service or work that he or she performs or agrees to perform;

e. The independent contractor is responsible for the satisfactory completion of work or services that he or she performs or agrees to perform and is or could be held liable for a failure to complete the work or services;

f. The independent contractor receives compensation for work or services performed for a commission or on a per-job or competitive-bid basis and not on any other basis;

g. The independent contractor may realize a profit or suffer a loss in connection with performing work or services;

h. The independent contractor has continuing or recurring business liabilities or obligations; and

i. The success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures.

However, the determination as to whether an individual included in the Standard Industrial Classification Manual of 1987, Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762, 0781, 0782, 0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436, 2448, or 2449, or a newspaper delivery person, is an independent contractor is governed not by the criteria in this paragraph but by common-law principles, giving due consideration to the business activity of the individual.

2. A real estate salesperson or agent, if that person agrees, in writing, to perform for remuneration solely by way of commission.

3. Bands, orchestras, and musical and theatrical performers, including disk jockeys, performing in licensed premises as defined in chapter 562, if a written contract evidencing an independent contractor relationship is entered into before the commencement of such entertainment.

4. An owner-operator of a motor vehicle who transports property under a written contract with a motor carrier which evidences a relationship by which the owner-operator assumes the responsibility of an employer for the performance of the contract, if the owner-operator is required to furnish the necessary motor vehicle equipment and all costs incidental to the performance of the contract, including, but not limited to, fuel, taxes, licenses, repairs, and hired help; and the owner-operator is paid a commission for transportation service and is not paid by the hour or on some other time-measured basis.

5. A person whose employment is both casual and not in the course of the trade, business, profession, or occupation of the employer.

6. A volunteer, except a volunteer worker for the state or a county, municipality, or other governmental entity. A person who does not receive monetary remuneration for services is presumed to be a volunteer unless there is substantial evidence that a valuable consideration was intended by both employer and employee. For purposes of this chapter, the term "volunteer" includes, but is not limited to:

a. Persons who serve in private nonprofit agencies and who receive no compensation other than expenses in an amount less than or equivalent to the standard mileage and per diem expenses provided to salaried employees in the same agency or, if such agency does not have salaried employees who receive mileage and per diem, then such volunteers who receive no compensation other than expenses in an amount less than or equivalent to the customary mileage and per diem paid to salaried workers in the community as determined by the *department* ~~division~~; and

b. Volunteers participating in federal programs established under Pub. L. No. 93-113.

7. Any officer of a corporation who elects to be exempt from this chapter.

8. A sole proprietor or officer of a corporation who actively engages in the construction industry, and a partner in a partnership that is actively engaged in the construction industry, who elects to be exempt from the provisions of this chapter. Such sole proprietor, officer, or partner is not an employee for any reason until the notice of revocation of election filed pursuant to s. 440.05 is effective.

9. An exercise rider who does not work for a single horse farm or breeder, and who is compensated for riding on a case-by-case basis, provided a written contract is entered into prior to the commencement of such activity which evidences that an employee/employer relationship does not exist.

10. A taxicab, limousine, or other passenger vehicle-for-hire driver who operates said vehicles pursuant to a written agreement with a company which provides any dispatch, marketing, insurance, communications, or other services under which the driver and any fees or charges paid by the driver to the company for such services are not conditioned upon, or expressed as a proportion of, fare revenues.

(40) "Agency" means the Agency for Health Care Administration.

Section 7. Section 440.021, Florida Statutes, is amended to read:

440.021 Exemption of workers' compensation from chapter 120.—Workers' compensation adjudications by judges of compensation claims are exempt from chapter 120, and no judge of compensation claims shall be considered an agency or a part thereof. Communications of the result of investigations by the *department* ~~division~~ pursuant to s. 440.185(4) are exempt from chapter 120. In all instances in which the *department* ~~division~~ institutes action to collect a penalty or interest which may be due pursuant to this chapter, the penalty or interest shall be assessed without hearing, and the party against which such penalty or interest is assessed shall be given written notice of such assessment and shall have the right to protest within 20 days of such notice. Upon receipt of a timely notice of protest and after such investigation as may be necessary, the *department* ~~division~~ shall, if it agrees with such protest, notify the protesting party that the assessment has been revoked. If the *department* ~~division~~ does not agree with the protest, it shall refer the matter to the judge of compensation claims for determination pursuant to s. 440.25(2)-(5). Such action of the *department* ~~division~~ is exempt from the provisions of chapter 120.

Section 8. Section 440.05, Florida Statutes, is amended to read:

440.05 Election of exemption; revocation of election; notice; certification.—

(1) Each corporate officer who elects not to accept the provisions of this chapter or who, after electing such exemption, revokes that exemption shall mail to the *department* ~~division~~ in Tallahassee notice to such effect in accordance with a form to be prescribed by the *department* ~~division~~.

(2) Each sole proprietor or partner who elects to be included in the definition of "employee" or who, after such election, revokes that election must mail to the *department* ~~division~~ in Tallahassee notice to such effect, in accordance with a form to be prescribed by the *department* ~~division~~.

(3) Each sole proprietor, partner, or officer of a corporation who is actively engaged in the construction industry and who elects an exemption from this chapter or who, after electing such exemption, revokes that exemption, must mail a written notice to such effect to the *department* ~~division~~ on a form prescribed by the *department* ~~division~~ notice of election to be exempt from the provisions of this chapter must be notarized and under oath. The notice of election to be exempt which is submitted to the *department* ~~division~~ by the sole proprietor, partner, or officer of a corporation must list the name, federal tax identification number, social security number, all certified or registered licenses issued pursuant to chapter 489 held by the person seeking the exemption, a copy of relevant documentation as to employment status filed with the Internal Revenue Service as specified by the *department* ~~division~~, a copy of the relevant occupational license in the primary jurisdiction of the business, and, for corporate officers and partners, the registration number of the corporation or partnership filed with the Division of Corporations of the Department of State. The notice of election to be exempt must identify each sole proprietorship, partnership, or corporation that employs the person electing the exemption and must list the social security number or federal tax identification number of each such employer and the additional documentation required by this section. In addition, the notice of election to be exempt must provide that the sole proprietor, partner, or officer electing an exemption is not entitled to benefits under this chapter, must provide that the election does not exceed exemption limits for officers and partnerships provided in s. 440.02, and must certify that any employees of the sole proprietor, partner, or officer electing an exemption are covered by workers' compensation insurance. Upon

receipt of the notice of the election to be exempt, receipt of all application fees, and a determination by the *department* ~~division~~ that the notice meets the requirements of this subsection, the *department* ~~division~~ shall issue a certification of the election to the sole proprietor, partner, or officer, unless the *department* ~~division~~ determines that the information contained in the notice is invalid. The *department* ~~division~~ shall revoke a certificate of election to be exempt from coverage upon a determination by the *department* ~~division~~ that the person does not meet the requirements for exemption or that the information contained in the notice of election to be exempt is invalid. The certificate of election must list the names of the sole proprietorship, partnership, or corporation listed in the request for exemption. A new certificate of election must be obtained each time the person is employed by a new sole proprietorship, partnership, or corporation that is not listed on the certificate of election. A copy of the certificate of election must be sent to each workers' compensation carrier identified in the request for exemption. Upon filing a notice of revocation of election, a sole proprietor, partner, or officer who is a subcontractor must notify her or his contractor. Upon revocation of a certificate of election of exemption by the *department* ~~division~~, the *department* ~~division~~ shall notify the workers' compensation carriers identified in the request for exemption.

(4) The notice of election to be exempt from the provisions of this chapter must contain a notice that clearly states in substance the following: "Any person who, knowingly and with intent to injure, defraud, or deceive the *department* ~~division~~ or any employer or employee, insurance company, or purposes program, files a notice of election to be exempt containing any false or misleading information is guilty of a felony of the third degree." Each person filing a notice of election to be exempt shall personally sign the notice and attest that he or she has reviewed, understands, and acknowledges the foregoing notice.

(5) A notice given under subsection (1), subsection (2), or subsection (3) shall become effective when issued by the *department* ~~division~~ or 30 days after an application for an exemption is received by the *department* ~~division~~, whichever occurs first. However, if an accident or occupational disease occurs less than 30 days after the effective date of the insurance policy under which the payment of compensation is secured or the date the employer qualified as a self-insurer, such notice is effective as of 12:01 a.m. of the day following the date it is mailed to the *department* ~~division~~ in Tallahassee.

(6) A construction industry certificate of election to be exempt which is issued in accordance with this section shall be valid for 2 years after the effective date stated thereon. Both the effective date and the expiration date must be listed on the face of the certificate by the *department* ~~division~~. The construction industry certificate must expire at midnight, 2 years from its issue date, as noted on the face of the exemption certificate. Any person who has received from the *department* ~~division~~ a construction industry certificate of election to be exempt which is in effect on December 31, 1998, shall file a new notice of election to be exempt by the last day in his or her birth month following December 1, 1998. A construction industry certificate of election to be exempt may be revoked before its expiration by the sole proprietor, partner, or officer for whom it was issued or by the *department* ~~division~~ for the reasons stated in this section. At least 60 days prior to the expiration date of a construction industry certificate of exemption issued after December 1, 1998, the *department* ~~division~~ shall send notice of the expiration date and an application for renewal to the certificateholder at the address on the certificate.

(7) Any contractor responsible for compensation under s. 440.10 may register in writing with the workers' compensation carrier for any subcontractor and shall thereafter be entitled to receive written notice from the carrier of any cancellation or nonrenewal of the policy.

(8)(a) The *department* ~~division~~ must assess a fee of $50 with each request for a construction industry certificate of election to be exempt or renewal of election to be exempt under this section.

(b) The funds collected by the *department* ~~division~~ shall be used to administer this section, to audit the businesses that pay the fee for compliance with any requirements of this chapter, and to enforce compliance with the provisions of this chapter.

(9) The *department* ~~division~~ may by rule prescribe forms and procedures for filing an election of exemption, revocation of election to be exempt, and notice of election of coverage for all employers and require specified forms to be submitted by all employers in filing for the election of exemption. The *department* ~~division~~ may by rule prescribe forms and procedures for issuing a certificate of the election of exemption.

Section 9. Paragraph (d) of subsection (7) of section 440.09, Florida Statutes, is amended to read:

440.09 Coverage.—

(7)

(d) The *department* ~~division~~ shall provide by rule for the authorization and regulation of drug-testing policies, procedures, and methods. Testing of injured employees shall not commence until such rules are adopted.

Section 10. Paragraphs (f) and (g) of subsection (1) of section 440.10, Florida Statutes, are amended to read:

440.10 Liability for compensation.—

(1)

(f) If an employer willfully fails to secure compensation as required by this chapter, the *department* ~~division~~ may assess against the employer a penalty not to exceed $5,000 for each employee of that employer who is classified by the employer as an independent contractor but who is found by the *department* ~~division~~ to not meet the criteria for an independent contractor that are set forth in s. 440.02.

(g) For purposes of this section, a person is conclusively presumed to be an independent contractor if:

1. The independent contractor provides the general contractor with an affidavit stating that he or she meets all the requirements of s. 440.02(14)(d); and

2. The independent contractor provides the general contractor with a valid certificate of workers' compensation insurance or a valid certificate of exemption issued by the *department* ~~division~~.

A sole proprietor, partner, or officer of a corporation who elects exemption from this chapter by filing a certificate of election under s. 440.05 may not recover benefits or compensation under this chapter. An independent contractor who provides the general contractor with both an affidavit stating that he or she meets the requirements of s. 440.02(14)(d) and a certificate of exemption is not an employee under s. 440.02(14)(c) and may not recover benefits under this chapter. For purposes of determining the appropriate premium for workers' compensation coverage, carriers may not consider any person who meets the requirements of this paragraph to be an employee.

Section 11. Subsection (2), paragraph (a) of subsection (3), and paragraph (g) of subsection (7) of section 440.102, Florida Statutes, are amended to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(2) DRUG TESTING.—An employer may test an employee or job applicant for any drug described in paragraph (1)(c). In order to qualify as having established a drug-free workplace program which affords an employer the ability to qualify for the discounts provided under s. 627.0915 and deny medical and indemnity benefits, under this chapter all drug testing conducted by employers shall be in conformity with the standards and procedures established in this section and all applicable rules adopted pursuant to this section. However, an employer does not have a legal duty under this section to request an employee or job applicant to undergo drug testing. If an employer fails to maintain a drug-free workplace program in accordance with the standards and procedures established in this section and in applicable rules, the

employer shall not be eligible for discounts under s. 627.0915. All employers qualifying for and receiving discounts provided under s. 627.0915 must be reported annually by the insurer to the *department* ~~division~~.

(3) NOTICE TO EMPLOYEES AND JOB APPLICANTS.—

(a) One time only, prior to testing, an employer shall give all employees and job applicants for employment a written policy statement which contains:

1. A general statement of the employer's policy on employee drug use, which must identify:

a. The types of drug testing an employee or job applicant may be required to submit to, including reasonable-suspicion drug testing or drug testing conducted on any other basis.

b. The actions the employer may take against an employee or job applicant on the basis of a positive confirmed drug test result.

2. A statement advising the employee or job applicant of the existence of this section.

3. A general statement concerning confidentiality.

4. Procedures for employees and job applicants to confidentially report to a medical review officer the use of prescription or nonprescription medications to a medical review officer both before and after being tested.

5. A list of the most common medications, by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications as developed by the Agency for Health Care Administration shall be available to employers through the Division of Workers' Compensation ~~of the Department of Labor and Employment Security~~.

6. The consequences of refusing to submit to a drug test.

7. A representative sampling of names, addresses, and telephone numbers of employee assistance programs and local drug rehabilitation programs.

8. A statement that an employee or job applicant who receives a positive confirmed test result may contest or explain the result to the medical review officer within 5 working days after receiving written notification of the test result; that if an employee's or job applicant's explanation or challenge is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result back to the employer; and that a person may contest the drug test result pursuant to law or to rules adopted by the Agency for Health Care Administration.

9. A statement informing the employee or job applicant of his or her responsibility to notify the laboratory of any administrative or civil action brought pursuant to this section.

10. A list of all drugs for which the employer will test, described by brand name or common name, as applicable, as well as by chemical name.

11. A statement regarding any applicable collective bargaining agreement or contract and the right to appeal to the Public Employees Relations Commission or applicable court.

12. A statement notifying employees and job applicants of their right to consult with a medical review officer for technical information regarding prescription or nonprescription medication.

(7) EMPLOYER PROTECTION.—

(g) This section does not prohibit an employer from conducting medical screening or other tests required, permitted, or not disallowed by any statute, rule, or regulation for the purpose of monitoring exposure of employees to toxic or other unhealthy substances in the workplace or in the performance of job responsibilities. Such screening or testing is limited to the specific substances expressly identified in the applicable statute, rule, or regulation, unless prior written consent of the employee is obtained for other tests. Such screening or testing need not be in compliance with the rules adopted by the Agency for Health Care Administration under this chapter or under s. 112.0455. A public employer may, through the use of an unbiased selection procedure, conduct random drug tests of employees occupying safety-sensitive or special-risk positions if the testing is performed in accordance with drug-testing rules adopted by the Agency for Health Care Administration and the Department of *Insurance* ~~Labor and Employment Security~~. If applicable, random drug testing must be specified in a collective bargaining agreement as negotiated by the appropriate certified bargaining agent before such testing is implemented.

Section 12. Section 440.103, Florida Statutes, is amended to read:

440.103 Building permits; identification of minimum premium policy.—Except as otherwise provided in this chapter, every employer shall, as a condition to receiving a building permit, show proof that it has secured compensation for its employees under this chapter as provided in ss. 440.10 and 440.38. Such proof of compensation must be evidenced by a certificate of coverage issued by the carrier, a valid exemption certificate approved by the division *or the department*, or a copy of the employer's authority to self-insure and shall be presented each time the employer applies for a building permit. As provided in s. 627.413(5), each certificate of coverage must show, on its face, whether or not coverage is secured under the minimum premium provisions of rules adopted by rating organizations licensed by the Department of Insurance. The words "minimum premium policy" or equivalent language shall be typed, printed, stamped, or legibly handwritten.

Section 13. Paragraph (a) of subsection (2) of section 440.105, Florida Statutes, is amended to read:

440.105 Prohibited activities; reports; penalties; limitations.—

(2) Whoever violates any provision of this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(a) It shall be unlawful for any employer to knowingly:

1. Coerce or attempt to coerce, as a precondition to employment or otherwise, an employee to obtain a certificate of election of exemption pursuant to s. 440.05.

2. Discharge or refuse to hire an employee or job applicant because the employee or applicant has filed a claim for benefits under this chapter.

3. Discharge, discipline, or take any other adverse personnel action against any employee for disclosing information to the *department* ~~division~~ or any law enforcement agency relating to any violation or suspected violation of any of the provisions of this chapter or rules promulgated hereunder.

4. Violate a stop-work order issued by the *department* ~~division~~ pursuant to s. 440.107.

Section 14. Subsections (3) and (4) of section 440.106, Florida Statutes, are amended to read:

440.106 Civil remedies; administrative penalties.—

(3) Whenever any group or individual self-insurer, carrier, rating bureau, or agent or other representative of any carrier or rating bureau is determined to have violated s. 440.105, the department ~~of Insurance~~ may revoke or suspend the authority or certification of any group or individual self-insurer, carrier, agent, or broker.

(4) The *department* ~~division~~ shall report any contractor determined in violation of requirements of this chapter to the appropriate state licensing board for disciplinary action.

Section 15. Section 440.107, Florida Statutes, is amended to read:

440.107 *Department* ~~Division~~ powers to enforce employer compliance with coverage requirements.—

(1) The Legislature finds that the failure of an employer to comply with the workers' compensation coverage requirements under this chapter poses an immediate danger to public health, safety, and welfare. The Legislature authorizes the *department* ~~division~~ to secure employer compliance with the workers' compensation coverage requirements and authorizes the *department* ~~division~~ to conduct investigations for the purpose of ensuring employer compliance.

(2) The *department* ~~division~~ and its authorized representatives may enter and inspect any place of business at any reasonable time for the limited purpose of investigating compliance with workers' compensation coverage requirements under this chapter. Each employer shall keep true and accurate business records that contain such information as the *department* ~~division~~ prescribes by rule. The business records must contain information necessary for the *department* ~~division~~ to determine compliance with workers' compensation coverage requirements and must be maintained within this state by the business, in such a manner as to be accessible within a reasonable time upon request by the *department* ~~division~~. The business records must be open to inspection and be available for copying by the *department* ~~division~~ at any reasonable time and place and as often as necessary. The *department* ~~division~~ may require from any employer any sworn or unsworn reports, pertaining to persons employed by that employer, deemed necessary for the effective administration of the workers' compensation coverage requirements.

(3) In discharging its duties, the *department* ~~division~~ may administer oaths and affirmations, certify to official acts, issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary by the *department* ~~division~~ as evidence in order to ensure proper compliance with the coverage provisions of this chapter.

(4) If a person has refused to obey a subpoena to appear before the *department* ~~division~~ or its authorized representative and produce evidence requested by the *department* ~~division~~ or to give testimony about the matter that is under investigation, a court has jurisdiction to issue an order requiring compliance with the subpoena if the court has jurisdiction in the geographical area where the inquiry is being carried on or in the area where the person who has refused the subpoena is found, resides, or transacts business. Failure to obey such a court order may be punished by the court as contempt.

(5) Whenever the *department* ~~division~~ determines that an employer who is required to secure the payment to his or her employees of the compensation provided for by this chapter has failed to do so, such failure shall be deemed an immediate serious danger to public health, safety, or welfare sufficient to justify service by the *department* ~~division~~ of a stop-work order on the employer, requiring the cessation of all business operations at the place of employment or job site. The order shall take effect upon the date of service upon the employer, unless the employer provides evidence satisfactory to the *department* ~~division~~ of having secured any necessary insurance or self-insurance and pays a civil penalty to the *department* ~~division~~, to be deposited by the *department* ~~division~~ into the Workers' Compensation Administration Trust Fund, in the amount of $100 per day for each day the employer was not in compliance with this chapter.

(6) The *department* ~~division~~ may file a complaint in the circuit court in and for Leon County to enjoin any employer, who has failed to secure compensation as required by this chapter, from employing individuals and from conducting business until the employer presents evidence satisfactory to the *department* ~~division~~ of having secured payment for compensation and pays a civil penalty to the *department* ~~division~~, to be deposited by the *department* ~~division~~ into the Workers' Compensation Administration Trust Fund, in the amount of $100 per day for each day the employer was not in compliance with this chapter.

(7) In addition to any penalty, stop-work order, or injunction, the *department* ~~division~~ may assess against any employer, who has failed to secure the payment of compensation as required by this chapter, a penalty in the amount of:

(a) Twice the amount the employer would have paid during periods it illegally failed to secure payment of compensation in the preceding 3-year period based on the employer's payroll during the preceding 3-year period; or

(b) One thousand dollars, whichever is greater.

Any penalty assessed under this subsection is due within 30 days after the date on which the employer is notified, except that, if the *department* ~~division~~ has posted a stop-work order or obtained injunctive relief against the employer, payment is due, in addition to those conditions set forth in this section, as a condition to relief from a stop-work order or an injunction. Interest shall accrue on amounts not paid when due at the rate of 1 percent per month.

(8) The *department* ~~division~~ may bring an action in circuit court to recover penalties assessed under this section, including any interest owed to the *department* ~~division~~ pursuant to this section. In any action brought by the *department* ~~division~~ pursuant to this section in which it prevails, the circuit court shall award costs, including the reasonable costs of investigation and a reasonable attorney's fee.

(9) Any judgment obtained by the *department* ~~division~~ and any penalty due pursuant to the service of a stop-work order or otherwise due under this section shall, until collected, constitute a lien upon the entire interest of the employer, legal or equitable, in any property, real or personal, tangible or intangible; however, such lien is subordinate to claims for unpaid wages and any prior recorded liens, and a lien created by this section is not valid against any person who, subsequent to such lien and in good faith and for value, purchases real or personal property from such employer or becomes the mortgagee on real or personal property of such employer, or against a subsequent attaching creditor, unless, with respect to real estate of the employer, a notice of the lien is recorded in the public records of the county where the real estate is located, and with respect to personal property of the employer, the notice is recorded with the Secretary of State.

(10) Any law enforcement agency in the state may, at the request of the *department* ~~division~~, render any assistance necessary to carry out the provisions of this section, including, but not limited to, preventing any employee or other person from remaining at a place of employment or job site after a stop-work order or injunction has taken effect.

(11) Actions by the *department* ~~division~~ under this section must be contested as provided in chapter 120. All civil penalties assessed by the *department* ~~division~~ must be paid into the Workers' Compensation Administration Trust Fund. The *department* ~~division~~ shall return any sums previously paid, upon conclusion of an action, if the *department* ~~division~~ fails to prevail and if so directed by an order of court or an administrative hearing officer. The requirements of this subsection may be met by posting a bond in an amount equal to twice the penalty and in a form approved by the *department* ~~division~~.

Section 16. Subsection (1) of section 440.108, Florida Statutes, is amended to read:

440.108 Investigatory records relating to workers' compensation employer compliance; confidentiality.—

(1) All investigatory records of the *department* ~~Division of Workers' Compensation~~ made or received pursuant to s. 440.107 and any records necessary to complete an investigation are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation is completed or ceases to be active. For purposes of this section, an investigation is considered "active" while such investigation is being conducted by the *department* ~~division~~ with a reasonable, *good-faith* ~~good faith~~ belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the agency is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the agency or other administrative or law enforcement agency. After an investigation is completed or ceases to be active, records relating to the investigation remain confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution if disclosure would:

(a) Jeopardize the integrity of another active investigation;

(b) Reveal a trade secret, as defined in s. 688.002;

(c) Reveal business or personal financial information;

(d) Reveal the identity of a confidential source;

(e) Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual; or

(f) Reveal investigative techniques or procedures.

Section 17. Section 440.125, Florida Statutes, is amended to read:

440.125 Medical records and reports; identifying information in employee medical bills; confidentiality.—

(1) Any medical records and medical reports of an injured employee and any information identifying an injured employee in medical bills which are provided to the *department, agency, or Department of Education* ~~Division of Workers' Compensation of the Department of Labor and Employment Security~~ pursuant to s. 440.13 are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except as otherwise provided by this chapter.

(2) The Legislature finds that it is a public necessity that an injured employee's medical records and medical reports and information identifying the employee in medical bills held by the *department, agency, or Department of Education* ~~Division of Workers' Compensation~~ pursuant to s. 440.13 be confidential and exempt from the public records law. Public access to such information is an invasion of the injured employee's right to privacy in that personal, sensitive information would be revealed, and public knowledge of such information could lead to discrimination against the employee by coworkers and others. Additionally, there is little utility in providing public access to such information in that the effectiveness and efficiency of the workers' compensation program can be otherwise adequately monitored and evaluated.

(3) The department may share any confidential and exempt information received pursuant to s. 440.13 with the Agency for Health Care Administration in furtherance of the agency's official duties under ss. 440.13 and 440.134. The agency shall maintain the confidential and exempt status of the information.

Section 18. Section 440.13, Florida Statutes, is amended to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

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

(a) "Alternate medical care" means a change in treatment or health care provider.

(b) "Attendant care" means care rendered by trained professional attendants which is beyond the scope of household duties. Family members may provide nonprofessional attendant care, but may not be compensated under this chapter for care that falls within the scope of household duties and other services normally and gratuitously provided by family members. "Family member" means a spouse, father, mother, brother, sister, child, grandchild, father-in-law, mother-in-law, aunt, or uncle.

(c) "Carrier" means, for purposes of this section, insurance carrier, self-insurance fund or individually self-insured employer, or assessable mutual insurer.

(d) "Catastrophic injury" means an injury as defined in s. 440.02.

(e) "Certified health care provider" means a health care provider who has been certified by the *agency* ~~division~~ or who has entered an agreement with a licensed managed care organization to provide treatment to injured workers under this section. Certification of such health care provider must include documentation that the health care provider has read and is familiar with the portions of the statute, impairment guides, and rules which govern the provision of remedial treatment, care, and attendance.

(f) "Compensable" means a determination by a carrier or judge of compensation claims that a condition suffered by an employee results from an injury arising out of and in the course of employment.

(g) "Emergency services and care" means emergency services and care as defined in s. 395.002.

(h) "Health care facility" means any hospital licensed under chapter 395 and any health care institution licensed under chapter 400.

(i) "Health care provider" means a physician or any recognized practitioner who provides skilled services pursuant to a prescription or under the supervision or direction of a physician and who has been certified by the *agency* ~~division~~ as a health care provider. The term "health care provider" includes a health care facility.

(j) "Independent medical examiner" means a physician selected by either an employee or a carrier to render one or more independent medical examinations in connection with a dispute arising under this chapter.

(k) "Independent medical examination" means an objective evaluation of the injured employee's medical condition, including, but not limited to, impairment or work status, performed by a physician or an expert medical advisor at the request of a party, a judge of compensation claims, or the *agency* ~~division~~ to assist in the resolution of a dispute arising under this chapter.

(l) "Instance of overutilization" means a specific inappropriate service or level of service provided to an injured employee.

(m) "Medically necessary" means any medical service or medical supply which is used to identify or treat an illness or injury, is appropriate to the patient's diagnosis and status of recovery, and is consistent with the location of service, the level of care provided, and applicable practice parameters. The service should be widely accepted among practicing health care providers, based on scientific criteria, and determined to be reasonably safe. The service must not be of an experimental, investigative, or research nature, except in those instances in which prior approval of the Agency for Health Care Administration has been obtained. The Agency for Health Care Administration shall adopt rules providing for such approval on a case-by-case basis when the service or supply is shown to have significant benefits to the recovery and well-being of the patient.

(n) "Medicine" means a drug prescribed by an authorized health care provider and includes only generic drugs or single-source patented drugs for which there is no generic equivalent, unless the authorized health care provider writes or states that the brand-name drug as defined in s. 465.025 is medically necessary, or is a drug appearing on the schedule of drugs created pursuant to s. 465.025(6), or is available at a cost lower than its generic equivalent.

(o) "Palliative care" means noncurative medical services that mitigate the conditions, effects, or pain of an injury.

(p) "Pattern or practice of overutilization" means repetition of instances of overutilization within a specific medical case or multiple cases by a single health care provider.

(q) "Peer review" means an evaluation by two or more physicians licensed under the same authority and with the same or similar specialty as the physician under review, of the appropriateness, quality, and cost of health care and health services provided to a patient, based on medically accepted standards.

(r) "Physician" or "doctor" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a chiropractic physician licensed under chapter 460, a podiatric physician licensed under chapter 461, an optometrist licensed under chapter 463, or a dentist licensed under chapter 466, each of whom must be certified by the *agency* ~~division~~ as a health care provider.

(s) "Reimbursement dispute" means any disagreement between a health care provider or health care facility and carrier concerning payment for medical treatment.

(t) "Utilization control" means a systematic process of implementing measures that assure overall management and cost containment of services delivered.

(u) "Utilization review" means the evaluation of the appropriateness of both the level and the quality of health care and health services provided to a patient, including, but not limited to, evaluation of the appropriateness of treatment, hospitalization, or office visits based on medically accepted standards. Such evaluation must be accomplished by means of a system that identifies the utilization of medical services based on medically accepted standards as established by medical consultants with qualifications similar to those providing the care under review, and that refers patterns and practices of overutilization to the *agency* ~~division~~.

(2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

(a) Subject to the limitations specified elsewhere in this chapter, the employer shall furnish to the employee such medically necessary remedial treatment, care, and attendance for such period as the nature of the injury or the process of recovery may require, including medicines, medical supplies, durable medical equipment, orthoses, prostheses, and other medically necessary apparatus. Remedial treatment, care, and attendance, including work-hardening programs or pain-management programs accredited by the Commission on Accreditation of Rehabilitation Facilities or Joint Commission on the Accreditation of Health Organizations or pain-management programs affiliated with medical schools, shall be considered as covered treatment only when such care is given based on a referral by a physician as defined in this chapter. Each facility shall maintain outcome data, including work status at discharges, total program charges, total number of visits, and length of stay. ~~The department shall utilize such data and report to the President of the Senate and the Speaker of the House of Representatives regarding the efficacy and cost-effectiveness of such program, no later than October 1, 1994.~~ Medically necessary treatment, care, and attendance does not include chiropractic services in excess of 18 treatments or rendered 8 weeks beyond the date of the initial chiropractic treatment, whichever comes first, unless the carrier authorizes additional treatment or the employee is catastrophically injured.

(b) The employer shall provide appropriate professional or nonprofessional attendant care performed only at the direction and control of a physician when such care is medically necessary. The value of nonprofessional attendant care provided by a family member must be determined as follows:

1. If the family member is not employed, the per-hour value equals the federal minimum hourly wage.

2. If the family member is employed and elects to leave that employment to provide attendant or custodial care, the per-hour value of that care equals the per-hour value of the family member's former employment, not to exceed the per-hour value of such care available in the community at large. A family member or a combination of family members providing nonprofessional attendant care under this paragraph may not be compensated for more than a total of 12 hours per day.

(c) If the employer fails to provide treatment or care required by this section after request by the injured employee, the employee may obtain such treatment at the expense of the employer, if the treatment is compensable and medically necessary. There must be a specific request for the treatment, and the employer or carrier must be given a reasonable time period within which to provide the treatment or care. However, the employee is not entitled to recover any amount personally expended for the treatment or service unless he or she has requested the employer to furnish that treatment or service and the employer has failed, refused, or neglected to do so within a reasonable time or unless the nature of the injury requires such treatment, nursing, and services and the employer or his or her superintendent or foreman, having knowledge of the injury, has neglected to provide the treatment or service.

(d) The carrier has the right to transfer the care of an injured employee from the attending health care provider if an independent medical examination determines that the employee is not making appropriate progress in recuperation.

(e) Except in emergency situations and for treatment rendered by a managed care arrangement, after any initial examination and diagnosis by a physician providing remedial treatment, care, and attendance, and before a proposed course of medical treatment begins, each insurer shall review, in accordance with the requirements of this chapter, the proposed course of treatment, to determine whether such treatment would be recognized as reasonably prudent. The review must be in accordance with all applicable workers' compensation practice parameters. The insurer must accept any such proposed course of treatment unless the insurer notifies the physician of its specific objections to the proposed course of treatment by the close of the tenth business day after notification by the physician, or a supervised designee of the physician, of the proposed course of treatment.

(3) PROVIDER ELIGIBILITY; AUTHORIZATION.—

(a) As a condition to eligibility for payment under this chapter, a health care provider who renders services must be a certified health care provider and must receive authorization from the carrier before providing treatment. This paragraph does not apply to emergency care. The *agency* ~~division~~ shall adopt rules to implement the certification of health care providers. As a one-time prerequisite to obtaining certification, the *agency* ~~division~~ shall require each physician to demonstrate proof of completion of a minimum 5-hour course that covers the subject areas of cost containment, utilization control, ergonomics, and the practice parameters adopted by the *agency* ~~division~~ governing the physician's field of practice. The *agency* ~~division~~ shall coordinate with ~~the Agency for Health Care Administration,~~ the Florida Medical Association, the Florida Osteopathic Medical Association, the Florida Chiropractic Association, the Florida Podiatric Medical Association, the Florida Optometric Association, the Florida Dental Association, and other health professional organizations and their respective boards as deemed necessary by the Agency for Health Care Administration in complying with this subsection. ~~No later than October 1, 1994, the division shall adopt rules regarding the criteria and procedures for approval of courses and the filing of proof of completion by the physicians.~~

(b) A health care provider who renders emergency care must notify the carrier by the close of the third business day after it has rendered such care. If the emergency care results in admission of the employee to a health care facility, the health care provider must notify the carrier by telephone within 24 hours after initial treatment. Emergency care is not compensable under this chapter unless the injury requiring emergency care arose as a result of a work-related accident. Pursuant to chapter 395, all licensed physicians and health care providers in this state shall be required to make their services available for emergency treatment of any employee eligible for workers' compensation benefits. To refuse to make such treatment available is cause for revocation of a license.

(c) A health care provider may not refer the employee to another health care provider, diagnostic facility, therapy center, or other facility without prior authorization from the carrier, except when emergency care is rendered. Any referral must be to a health care provider that has been certified by the *agency* ~~division~~, unless the referral is for emergency treatment.

(d) A carrier must respond, by telephone or in writing, to a request for authorization by the close of the third business day after receipt of the request. A carrier who fails to respond to a written request for authorization for referral for medical treatment by the close of the third business day after receipt of the request consents to the medical necessity for such treatment. All such requests must be made to the carrier. Notice to the carrier does not include notice to the employer.

(e) Carriers shall adopt procedures for receiving, reviewing, documenting, and responding to requests for authorization. Such procedures shall be for a health care provider certified under this section.

(f) By accepting payment under this chapter for treatment rendered to an injured employee, a health care provider consents to the jurisdiction of the *agency* ~~division~~ as set forth in subsection (11) and to the submission of all records and other information concerning such treatment to the *agency* ~~division~~ in connection with a reimbursement dispute, audit, or review as provided by this section. The health care provider must further agree to comply with any decision of the *agency* ~~division~~ rendered under this section.

(g) The employee is not liable for payment for medical treatment or services provided pursuant to this section except as otherwise provided in this section.

(h) The provisions of s. 456.053 are applicable to referrals among health care providers, as defined in subsection (1), treating injured workers.

(i) Notwithstanding paragraph (d), a claim for specialist consultations, surgical operations, physiotherapeutic or occupational therapy procedures, X-ray examinations, or special diagnostic laboratory tests that cost more than $1,000 and other specialty services that the *agency* ~~division~~ identifies by rule is not valid and reimbursable unless the services have been expressly authorized by the carrier, or unless the carrier has failed to respond within 10 days to a written request for authorization, or unless emergency care is required. The insurer shall not refuse to authorize such consultation or procedure unless the health care provider or facility is not authorized or certified or unless an expert medical advisor has determined that the consultation or procedure is not medically necessary or otherwise compensable under this chapter. Authorization of a treatment plan does not constitute express authorization for purposes of this section, except to the extent the carrier provides otherwise in its authorization procedures. This paragraph does not limit the carrier's obligation to identify and disallow overutilization or billing errors.

(j) Notwithstanding anything in this chapter to the contrary, a sick or injured employee shall be entitled, at all times, to free, full, and absolute choice in the selection of the pharmacy or pharmacist dispensing and filling prescriptions for medicines required under this chapter. It is expressly forbidden for the *agency* ~~division~~, an employer, or a carrier, or any agent or representative of the *agency* ~~division~~, an employer, or a carrier to select the pharmacy or pharmacist which the sick or injured employee must use; condition coverage or payment on the basis of the pharmacy or pharmacist utilized; or to otherwise interfere in the selection by the sick or injured employee of a pharmacy or pharmacist.

(4) NOTICE OF TREATMENT TO CARRIER; FILING WITH *DEPARTMENT* ~~DIVISION~~.—

(a) Any health care provider providing necessary remedial treatment, care, or attendance to any injured worker shall submit treatment reports to the carrier in a format prescribed by the *department in consultation with the agency* ~~division~~. A claim for medical or surgical treatment is not valid or enforceable against such employer or employee, unless, by the close of the third business day following the first treatment, the physician providing the treatment furnishes to the employer or carrier a preliminary notice of the injury and treatment on forms prescribed by the *department in consultation with the agency* ~~division~~ and, within 15 days thereafter, furnishes to the employer or carrier a complete report, and subsequent thereto furnishes progress reports, if requested by the employer or insurance carrier, at intervals of not less than 3 weeks apart or at less frequent intervals if requested on forms prescribed by the *department* ~~division~~.

(b) Each medical report or bill obtained or received by the employer, the carrier, or the injured employee, or the attorney for the employer, carrier, or injured employee, with respect to the remedial treatment or care of the injured employee, including any report of an examination, diagnosis, or disability evaluation, must be filed with the *department* ~~Division of Workers' Compensation~~ pursuant to rules adopted by the *department in consultation with the agency* ~~division~~. The health care provider shall also furnish to the injured employee or to his or her attorney, on demand, a copy of his or her office chart, records, and reports, and may charge the injured employee an amount authorized by the *department* ~~division~~ for the copies. Each such health care provider shall provide to the *agency or department* ~~division~~ any additional information about the remedial treatment, care, and attendance that the *agency or department* ~~division~~ reasonably requests.

(c) It is the policy for the administration of the workers' compensation system that there be reasonable access to medical information by all parties to facilitate the self-executing features of the law. Notwithstanding the limitations in s. 456.057 and subject to the limitations in s. 381.004, upon the request of the employer, the carrier, or the attorney for either of them, the medical records of an injured employee must be furnished to those persons and the medical condition of the injured employee must be discussed with those persons, if the records and the discussions are restricted to conditions relating to the workplace injury. Any such discussions may be held before or after the filing of a claim without the knowledge, consent, or presence of any other party or his or her agent or representative. A health care provider who willfully refuses to provide medical records or to discuss the medical condition of the injured employee, after a reasonable request is made for such information pursuant to this subsection, shall be subject by the *agency* ~~division~~ to one or more of the penalties set forth in paragraph (8)(b).

(5) INDEPENDENT MEDICAL EXAMINATIONS.—

(a) In any dispute concerning overutilization, medical benefits, compensability, or disability under this chapter, the carrier or the employee may select an independent medical examiner. The examiner may be a health care provider treating or providing other care to the employee. An independent medical examiner may not render an opinion outside his or her area of expertise, as demonstrated by licensure and applicable practice parameters.

(b) Each party is bound by his or her selection of an independent medical examiner and is entitled to an alternate examiner only if:

1. The examiner is not qualified to render an opinion upon an aspect of the employee's illness or injury which is material to the claim or petition for benefits;

2. The examiner ceases to practice in the specialty relevant to the employee's condition;

3. The examiner is unavailable due to injury, death, or relocation outside a reasonably accessible geographic area; or

4. The parties agree to an alternate examiner.

Any party may request, or a judge of compensation claims may require, designation of *an agency* ~~a division~~ medical advisor as an independent medical examiner. The opinion of the advisors acting as examiners shall not be afforded the presumption set forth in paragraph (9)(c).

(c) The carrier may, at its election, contact the claimant directly to schedule a reasonable time for an independent medical examination. The carrier must confirm the scheduling agreement in writing within 5 days and notify claimant's counsel, if any, at least 7 days before the date upon which the independent medical examination is scheduled to occur. An attorney representing a claimant is not authorized to schedule independent medical evaluations under this subsection.

(d) If the employee fails to appear for the independent medical examination without good cause and fails to advise the physician at least 24 hours before the scheduled date for the examination that he or she cannot appear, the employee is barred from recovering compensation for any period during which he or she has refused to submit to such examination. Further, the employee shall reimburse the carrier 50 percent of the physician's cancellation or no-show fee unless the carrier that schedules the examination fails to timely provide to the employee a written confirmation of the date of the examination pursuant to paragraph (c) which includes an explanation of why he or she failed to appear. The employee may appeal to a judge of compensation claims for reimbursement when the carrier withholds payment in excess of the authority granted by this section.

(e) No medical opinion other than the opinion of a medical advisor appointed by the judge of compensation claims or *agency* ~~division~~, an

independent medical examiner, or an authorized treating provider is admissible in proceedings before the judges of compensation claims.

(f) Attorney's fees incurred by an injured employee in connection with delay of or opposition to an independent medical examination, including, but not limited to, motions for protective orders, are not recoverable under this chapter.

(6) UTILIZATION REVIEW.—Carriers shall review all bills, invoices, and other claims for payment submitted by health care providers in order to identify overutilization and billing errors, and may hire peer review consultants or conduct independent medical evaluations. Such consultants, including peer review organizations, are immune from liability in the execution of their functions under this subsection to the extent provided in s. 766.101. If a carrier finds that overutilization of medical services or a billing error has occurred, it must disallow or adjust payment for such services or error without order of a judge of compensation claims or the *agency* ~~division~~, if the carrier, in making its determination, has complied with this section and rules adopted by the *agency* ~~division~~.

(7) UTILIZATION AND REIMBURSEMENT DISPUTES.—

(a) Any health care provider, carrier, or employer who elects to contest the disallowance or adjustment of payment by a carrier under subsection (6) must, within 30 days after receipt of notice of disallowance or adjustment of payment, petition the *agency* ~~division~~ to resolve the dispute. The petitioner must serve a copy of the petition on the carrier and on all affected parties by certified mail. The petition must be accompanied by all documents and records that support the allegations contained in the petition. Failure of a petitioner to submit such documentation to the *agency* ~~division~~ results in dismissal of the petition.

(b) The carrier must submit to the *agency* ~~division~~ within 10 days after receipt of the petition all documentation substantiating the carrier's disallowance or adjustment. Failure of the carrier to submit the requested documentation to the *agency* ~~division~~ within 10 days constitutes a waiver of all objections to the petition.

(c) Within 60 days after receipt of all documentation, the *agency* ~~division~~ must provide to the petitioner, the carrier, and the affected parties a written determination of whether the carrier properly adjusted or disallowed payment. The *agency* ~~division~~ must be guided by standards and policies set forth in this chapter, including all applicable reimbursement schedules, in rendering its determination.

(d) If the *agency* ~~division~~ finds an improper disallowance or improper adjustment of payment by an insurer, the insurer shall reimburse the health care provider, facility, insurer, or employer within 30 days, subject to the penalties provided in this subsection.

(e) The *agency* ~~division~~ shall adopt rules to carry out this subsection. The rules may include provisions for consolidating petitions filed by a petitioner and expanding the timetable for rendering a determination upon a consolidated petition.

(f) Any carrier that engages in a pattern or practice of arbitrarily or unreasonably disallowing or reducing payments to health care providers may be subject to one or more of the following penalties imposed by the *agency* ~~division~~:

1. Repayment of the appropriate amount to the health care provider.

2. An administrative fine assessed by the *agency* ~~division~~ in an amount not to exceed $5,000 per instance of improperly disallowing or reducing payments.

3. Award of the health care provider's costs, including a reasonable attorney's fee, for prosecuting the petition.

(8) PATTERN OR PRACTICE OF OVERUTILIZATION.—

(a) Carriers must report to the *agency* ~~division~~ all instances of overutilization including, but not limited to, all instances in which the carrier disallows or adjusts payment. The *agency* ~~division~~ shall determine whether a pattern or practice of overutilization exists.

(b) If the *agency* ~~division~~ determines that a health care provider has engaged in a pattern or practice of overutilization or a violation of this chapter or rules adopted by the *agency* ~~division~~, it may impose one or more of the following penalties:

1. An order of the *agency* ~~division~~ barring the provider from payment under this chapter;

2. Deauthorization of care under review;

3. Denial of payment for care rendered in the future;

4. Decertification of a health care provider certified as an expert medical advisor under subsection (9) or of a rehabilitation provider certified under s. 440.49;

5. An administrative fine assessed by the *agency* ~~division~~ in an amount not to exceed $5,000 per instance of overutilization or violation; and

6. Notification of and review by the appropriate licensing authority pursuant to s. 440.106(3).

(9) EXPERT MEDICAL ADVISORS.—

(a) The *agency* ~~division~~ shall certify expert medical advisors in each specialty to assist the *agency* ~~division~~ and the judges of compensation claims within the advisor's area of expertise as provided in this section. The *agency* ~~division~~ shall, in a manner prescribed by rule, in certifying, recertifying, or decertifying an expert medical advisor, consider the qualifications, training, impartiality, and commitment of the health care provider to the provision of quality medical care at a reasonable cost. As a prerequisite for certification or recertification, the *agency* ~~division~~ shall require, at a minimum, that an expert medical advisor have specialized workers' compensation training or experience under the workers' compensation system of this state and board certification or board eligibility.

(b) The *agency* ~~division~~ shall contract with or employ expert medical advisors to provide peer review or medical consultation to the *agency* ~~division~~ or to a judge of compensation claims in connection with resolving disputes relating to reimbursement, differing opinions of health care providers, and health care and physician services rendered under this chapter. Expert medical advisors contracting with the *agency* ~~division~~ shall, as a term of such contract, agree to provide consultation or services in accordance with the timetables set forth in this chapter and to abide by rules adopted by the *agency* ~~division~~, including, but not limited to, rules pertaining to procedures for review of the services rendered by health care providers and preparation of reports and recommendations for submission to the *agency* ~~division~~.

(c) If there is disagreement in the opinions of the health care providers, if two health care providers disagree on medical evidence supporting the employee's complaints or the need for additional medical treatment, or if two health care providers disagree that the employee is able to return to work, the *agency* ~~division~~ may, and the judge of compensation claims shall, upon his or her own motion or within 15 days after receipt of a written request by either the injured employee, the employer, or the carrier, order the injured employee to be evaluated by an expert medical advisor. The opinion of the expert medical advisor is presumed to be correct unless there is clear and convincing evidence to the contrary as determined by the judge of compensation claims. The expert medical advisor appointed to conduct the evaluation shall have free and complete access to the medical records of the employee. An employee who fails to report to and cooperate with such evaluation forfeits entitlement to compensation during the period of failure to report or cooperate.

(d) The expert medical advisor must complete his or her evaluation and issue his or her report to the *agency* ~~division~~ or to the judge of compensation claims within 45 days after receipt of all medical records. The expert medical advisor must furnish a copy of the report to the carrier and to the employee.

(e) An expert medical advisor is not liable under any theory of recovery for evaluations performed under this section without a showing

of fraud or malice. The protections of s. 766.101 apply to any officer, employee, or agent of the *agency* ~~division~~ and to any officer, employee, or agent of any entity with which the *agency* ~~division~~ has contracted under this subsection.

(f) If the *agency* ~~division~~ or a judge of compensation claims determines that the services of a certified expert medical advisor are required to resolve a dispute under this section, the carrier must compensate the advisor for his or her time in accordance with a schedule adopted by the *agency* ~~division~~. The *agency* ~~division~~ may assess a penalty not to exceed $500 against any carrier that fails to timely compensate an advisor in accordance with this section.

(10) WITNESS FEES.—Any health care provider who gives a deposition shall be allowed a witness fee. The amount charged by the witness may not exceed $200 per hour. An expert witness who has never provided direct professional services to a party but has merely reviewed medical records and provided an expert opinion or has provided only direct professional services that were unrelated to the workers' compensation case may not be allowed a witness fee in excess of $200 per day.

(11) AUDITS BY *AGENCY FOR HEALTH CARE ADMINISTRATION* ~~DIVISION~~; JURISDICTION.—

(a) The *Agency for Health Care Administration* ~~Division of Workers' Compensation of the Department of Labor and Employment Security~~ may investigate health care providers to determine whether providers are complying with this chapter and with rules adopted by the *agency* ~~division~~, whether the providers are engaging in overutilization, and whether providers are engaging in improper billing practices. If the *agency* ~~division~~ finds that a health care provider has improperly billed, overutilized, or failed to comply with *agency* ~~division~~ rules or the requirements of this chapter it must notify the provider of its findings and may determine that the health care provider may not receive payment from the carrier or may impose penalties as set forth in subsection (8) or other sections of this chapter. If the health care provider has received payment from a carrier for services that were improperly billed or for overutilization, it must return those payments to the carrier. The *agency* ~~division~~ may assess a penalty not to exceed $500 for each overpayment that is not refunded within 30 days after notification of overpayment by the *agency* ~~division~~ or carrier.

(b) The *department* ~~division~~ shall monitor and audit carriers*, as provided in s. 624.3161,* to determine if medical bills are paid in accordance with this section and *department* ~~division~~ rules. ~~Any employer, if self-insured, or carrier found by the division not to be within 90 percent compliance as to the payment of medical bills after July 1, 1994, must be assessed a fine not to exceed 1 percent of the prior year's assessment levied against such entity under s. 440.51 for every quarter in which the entity fails to attain 90 percent compliance.~~ The *department* ~~division~~ shall fine *or otherwise discipline* an employer or carrier, pursuant to *this chapter, the insurance code, or* rules adopted by the *department* ~~division, for each late payment of compensation that is below the minimum 90 percent performance standard. Any carrier that is found to be not in compliance in subsequent consecutive quarters must implement a medical bill review program approved by the division, and the carrier is subject to disciplinary action by the Department of Insurance~~.

(c) The *agency* ~~division~~ has exclusive jurisdiction to decide any matters concerning reimbursement, to resolve any overutilization dispute under subsection (7), and to decide any question concerning overutilization under subsection (8), which question or dispute arises after January 1, 1994.

(d) The following *agency* ~~division~~ actions do not constitute agency action subject to review under ss. 120.569 and 120.57 and do not constitute actions subject to s. 120.56: referral by the entity responsible for utilization review; a decision by the *agency* ~~division~~ to refer a matter to a peer review committee; establishment by a health care provider or entity of procedures by which a peer review committee reviews the rendering of health care services; and the review proceedings, report, and recommendation of the peer review committee.

(12) CREATION OF THREE-MEMBER PANEL; GUIDES OF MAXIMUM REIMBURSEMENT ALLOWANCES.—

(a) A three-member panel is created, consisting of the Insurance Commissioner, or the Insurance Commissioner's designee, and two members to be appointed by the Governor, subject to confirmation by the Senate, one member who, on account of present or previous vocation, employment, or affiliation, shall be classified as a representative of employers, the other member who, on account of previous vocation, employment, or affiliation, shall be classified as a representative of employees. The panel shall determine statewide schedules of maximum reimbursement allowances for medically necessary treatment, care, and attendance provided by physicians, hospitals, ambulatory surgical centers, work-hardening programs, pain programs, and durable medical equipment. The maximum reimbursement allowances for inpatient hospital care shall be based on a schedule of per diem rates, to be approved by the three-member panel no later than March 1, 1994, to be used in conjunction with a precertification manual as determined by the *agency* ~~division~~. All compensable charges for hospital outpatient care shall be reimbursed at 75 percent of usual and customary charges. Until the three-member panel approves a schedule of per diem rates for inpatient hospital care and it becomes effective, all compensable charges for hospital inpatient care must be reimbursed at 75 percent of their usual and customary charges. Annually, the three-member panel shall adopt schedules of maximum reimbursement allowances for physicians, hospital inpatient care, hospital outpatient care, ambulatory surgical centers, work-hardening programs, and pain programs. However, the maximum percentage of increase in the individual reimbursement allowance may not exceed the percentage of increase in the Consumer Price Index for the previous year. An individual physician, hospital, ambulatory surgical center, pain program, or work-hardening program shall be reimbursed either the usual and customary charge for treatment, care, and attendance, the agreed-upon contract price, *the per diem rate for hospital inpatient stay,* or the maximum reimbursement allowance in the appropriate schedule, whichever is less.

(b) As to reimbursement for a prescription medication, the reimbursement amount for a prescription shall be the average wholesale price times 1.2 plus $4.18 for the dispensing fee, except where the carrier has contracted for a lower amount. Fees for pharmaceuticals and pharmaceutical services shall be reimbursable at the applicable fee schedule amount. Where the employer or carrier has contracted for such services and the employee elects to obtain them through a provider not a party to the contract, the carrier shall reimburse at the schedule, negotiated, or contract price, whichever is lower.

(c) Reimbursement for all fees and other charges for such treatment, care, and attendance, including treatment, care, and attendance provided by any hospital or other health care provider, ambulatory surgical center, work-hardening program, or pain program, must not exceed the amounts provided by the uniform schedule of maximum reimbursement allowances as determined by the panel or as otherwise provided in this section. This subsection also applies to independent medical examinations performed by health care providers under this chapter. Until the three-member panel approves a uniform schedule of maximum reimbursement allowances and it becomes effective, all compensable charges for treatment, care, and attendance provided by physicians, ambulatory surgical centers, work-hardening programs, or pain programs shall be reimbursed at the lowest maximum reimbursement allowance across all 1992 schedules of maximum reimbursement allowances for the services provided regardless of the place of service. In determining the uniform schedule, the panel shall first approve the data which it finds representative of prevailing charges in the state for similar treatment, care, and attendance of injured persons. Each health care provider, health care facility, ambulatory surgical center, work-hardening program, or pain program receiving workers' compensation payments shall maintain records verifying their usual charges. In establishing the uniform schedule of maximum reimbursement allowances, the panel must consider:

1. The levels of reimbursement for similar treatment, care, and attendance made by other health care programs or third-party providers;

2. The impact upon cost to employers for providing a level of reimbursement for treatment, care, and attendance which will ensure the availability of treatment, care, and attendance required by injured workers;

3. The financial impact of the reimbursement allowances upon health care providers and health care facilities, including trauma centers as defined in s. 395.4001, and its effect upon their ability to make available to injured workers such medically necessary remedial treatment, care, and attendance. The uniform schedule of maximum reimbursement allowances must be reasonable, must promote health care cost containment and efficiency with respect to the workers' compensation health care delivery system, and must be sufficient to ensure availability of such medically necessary remedial treatment, care, and attendance to injured workers; and

4. The most recent average maximum allowable rate of increase for hospitals determined by the Health Care Board under chapter 408.

(13) REMOVAL OF PHYSICIANS FROM LISTS OF THOSE AUTHORIZED TO RENDER MEDICAL CARE.—The *agency* ~~division~~ shall remove from the list of physicians or facilities authorized to provide remedial treatment, care, and attendance under this chapter the name of any physician or facility found after reasonable investigation to have:

(a) Engaged in professional or other misconduct or incompetency in connection with medical services rendered under this chapter;

(b) Exceeded the limits of his or her or its professional competence in rendering medical care under this chapter, or to have made materially false statements regarding his or her or its qualifications in his or her application;

(c) Failed to transmit copies of medical reports to the employer or carrier, or failed to submit full and truthful medical reports of all his or her or its findings to the employer or carrier as required under this chapter;

(d) Solicited, or employed another to solicit for himself or herself or itself or for another, professional treatment, examination, or care of an injured employee in connection with any claim under this chapter;

(e) Refused to appear before, or to answer upon request of, the *agency* ~~division~~ or any duly authorized officer of the state, any legal question, or to produce any relevant book or paper concerning his or her conduct under any authorization granted to him or her under this chapter;

(f) Self-referred in violation of this chapter or other laws of this state; or

(g) Engaged in a pattern of practice of overutilization or a violation of this chapter or rules adopted by the *agency* ~~division~~.

(14) PAYMENT OF MEDICAL FEES.—

(a) Except for emergency care treatment, fees for medical services are payable only to a health care provider certified and authorized to render remedial treatment, care, or attendance under this chapter. A health care provider may not collect or receive a fee from an injured employee within this state, except as otherwise provided by this chapter. Such providers have recourse against the employer or carrier for payment for services rendered in accordance with this chapter.

(b) Fees charged for remedial treatment, care, and attendance may not exceed the applicable fee schedules adopted under this chapter.

(c) Notwithstanding any other provision of this chapter, following overall maximum medical improvement from an injury compensable under this chapter, the employee is obligated to pay a copayment of $10 per visit for medical services. The copayment shall not apply to emergency care provided to the employee.

(15) PRACTICE PARAMETERS.—

(a) The Agency for Health Care Administration, in conjunction with the *department* ~~division~~ and appropriate health professional associations and health-related organizations shall develop and may adopt by rule scientifically sound practice parameters for medical procedures relevant to workers' compensation claimants. Practice parameters developed under this section must focus on identifying effective remedial treatments and promoting the appropriate utilization of health care resources. Priority must be given to those procedures that involve the greatest utilization of resources either because they are the most costly or because they are the most frequently performed. Practice parameters for treatment of the 10 top procedures associated with workers' compensation injuries including the remedial treatment of lower-back injuries must be developed by December 31, 1994.

(b) The guidelines may be initially based on guidelines prepared by nationally recognized health care institutions and professional organizations but should be tailored to meet the workers' compensation goal of returning employees to full employment as quickly as medically possible, taking into consideration outcomes data collected from managed care providers and any other inpatient and outpatient facilities serving workers' compensation claimants.

(c) Procedures must be instituted which provide for the periodic review and revision of practice parameters based on the latest outcomes data, research findings, technological advancements, and clinical experiences, at least once every 3 years.

(d) Practice parameters developed under this section must be used by carriers and the *agency* ~~division~~ in evaluating the appropriateness and overutilization of medical services provided to injured employees.

Section 19. Subsection (23) of section 440.134, Florida Statutes, is amended to read:

440.134 Workers' compensation managed care arrangement.—

(23) The agency shall immediately notify the Department of Insurance ~~and the Department of Labor and Employment Security~~ whenever it issues an administrative complaint or an order or otherwise initiates legal proceedings resulting in, or which may result in, suspension or revocation of an insurer's authorization.

Section 20. Subsection (3) of section 440.14, Florida Statutes, is amended to read:

440.14 Determination of pay.—

(3) The *department* ~~division~~ shall establish by rule a form which shall contain a simplified checklist of those items which may be included as "wage" for determining the average weekly wage.

Section 21. Subsections (11), (13), and (14) of section 440.02, Florida Statutes, are amended, and subsection (40) is added to that section, to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(11) "Department" means the Department of *Insurance* ~~Labor and Employment Security~~.

(13) "Division" means the Division of Workers' Compensation of the Department of *Insurance* ~~Labor and Employment Security~~.

(14)(a) "Employee" means any person engaged in any employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes, but is not limited to, aliens and minors.

(b) "Employee" includes any person who is an officer of a corporation and who performs services for remuneration for such corporation within this state, whether or not such services are continuous.

1. Any officer of a corporation may elect to be exempt from this chapter by filing written notice of the election with the *department* ~~division~~ as provided in s. 440.05.

2. As to officers of a corporation who are actively engaged in the construction industry, no more than three officers may elect to be

exempt from this chapter by filing written notice of the election with the *department* ~~division~~ as provided in s. 440.05.

3. An officer of a corporation who elects to be exempt from this chapter by filing a written notice of the election with the *department* ~~division~~ as provided in s. 440.05 is not an employee.

Services are presumed to have been rendered to the corporation if the officer is compensated by other than dividends upon shares of stock of the corporation which the officer owns.

(c) "Employee" includes a sole proprietor or a partner who devotes full time to the proprietorship or partnership and, except as provided in this paragraph, elects to be included in the definition of employee by filing notice thereof as provided in s. 440.05. Partners or sole proprietors actively engaged in the construction industry are considered employees unless they elect to be excluded from the definition of employee by filing written notice of the election with the *department* ~~division~~ as provided in s. 440.05. However, no more than three partners in a partnership that is actively engaged in the construction industry may elect to be excluded. A sole proprietor or partner who is actively engaged in the construction industry and who elects to be exempt from this chapter by filing a written notice of the election with the *department* ~~division~~ as provided in s. 440.05 is not an employee. For purposes of this chapter, an independent contractor is an employee unless he or she meets all of the conditions set forth in subparagraph (d)1.

(d) "Employee" does not include:

1. An independent contractor, if:

a. The independent contractor maintains a separate business with his or her own work facility, truck, equipment, materials, or similar accommodations;

b. The independent contractor holds or has applied for a federal employer identification number, unless the independent contractor is a sole proprietor who is not required to obtain a federal employer identification number under state or federal requirements;

c. The independent contractor performs or agrees to perform specific services or work for specific amounts of money and controls the means of performing the services or work;

d. The independent contractor incurs the principal expenses related to the service or work that he or she performs or agrees to perform;

e. The independent contractor is responsible for the satisfactory completion of work or services that he or she performs or agrees to perform and is or could be held liable for a failure to complete the work or services;

f. The independent contractor receives compensation for work or services performed for a commission or on a per-job or competitive-bid basis and not on any other basis;

g. The independent contractor may realize a profit or suffer a loss in connection with performing work or services;

h. The independent contractor has continuing or recurring business liabilities or obligations; and

i. The success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures.

However, the determination as to whether an individual included in the Standard Industrial Classification Manual of 1987, Industry Numbers 0711, 0721, 0722, 0751, 0761, 0762, 0781, 0782, 0783, 0811, 0831, 0851, 2411, 2421, 2435, 2436, 2448, or 2449, or a newspaper delivery person, is an independent contractor is governed not by the criteria in this paragraph but by common-law principles, giving due consideration to the business activity of the individual.

2. A real estate salesperson or agent, if that person agrees, in writing, to perform for remuneration solely by way of commission.

3. Bands, orchestras, and musical and theatrical performers, including disk jockeys, performing in licensed premises as defined in chapter 562, if a written contract evidencing an independent contractor relationship is entered into before the commencement of such entertainment.

4. An owner-operator of a motor vehicle who transports property under a written contract with a motor carrier which evidences a relationship by which the owner-operator assumes the responsibility of an employer for the performance of the contract, if the owner-operator is required to furnish the necessary motor vehicle equipment and all costs incidental to the performance of the contract, including, but not limited to, fuel, taxes, licenses, repairs, and hired help; and the owner-operator is paid a commission for transportation service and is not paid by the hour or on some other time-measured basis.

5. A person whose employment is both casual and not in the course of the trade, business, profession, or occupation of the employer.

6. A volunteer, except a volunteer worker for the state or a county, municipality, or other governmental entity. A person who does not receive monetary remuneration for services is presumed to be a volunteer unless there is substantial evidence that a valuable consideration was intended by both employer and employee. For purposes of this chapter, the term "volunteer" includes, but is not limited to:

a. Persons who serve in private nonprofit agencies and who receive no compensation other than expenses in an amount less than or equivalent to the standard mileage and per diem expenses provided to salaried employees in the same agency or, if such agency does not have salaried employees who receive mileage and per diem, then such volunteers who receive no compensation other than expenses in an amount less than or equivalent to the customary mileage and per diem paid to salaried workers in the community as determined by the *department* ~~division~~; and

b. Volunteers participating in federal programs established under Pub. L. No. 93-113.

7. Any officer of a corporation who elects to be exempt from this chapter.

8. A sole proprietor or officer of a corporation who actively engages in the construction industry, and a partner in a partnership that is actively engaged in the construction industry, who elects to be exempt from the provisions of this chapter. Such sole proprietor, officer, or partner is not an employee for any reason until the notice of revocation of election filed pursuant to s. 440.05 is effective.

9. An exercise rider who does not work for a single horse farm or breeder, and who is compensated for riding on a case-by-case basis, provided a written contract is entered into prior to the commencement of such activity which evidences that an employee/employer relationship does not exist.

10. A taxicab, limousine, or other passenger vehicle-for-hire driver who operates said vehicles pursuant to a written agreement with a company which provides any dispatch, marketing, insurance, communications, or other services under which the driver and any fees or charges paid by the driver to the company for such services are not conditioned upon, or expressed as a proportion of, fare revenues.

(40) "Agency" means the Agency for Health Care Administration.

Section 22. Section 440.15, Florida Statutes, is amended to read:

440.15 Compensation for disability.—Compensation for disability shall be paid to the employee, subject to the limits provided in s. 440.12(2), as follows:

(1) PERMANENT TOTAL DISABILITY.—

(a) In case of total disability adjudged to be permanent, 66⅔ percent of the average weekly wages shall be paid to the employee during the continuance of such total disability.

(b) Only a catastrophic injury as defined in s. 440.02 shall, in the absence of conclusive proof of a substantial earning capacity, constitute

permanent total disability. Only claimants with catastrophic injuries are eligible for permanent total benefits. In no other case may permanent total disability be awarded.

(c) In cases of permanent total disability resulting from injuries that occurred prior to July 1, 1955, such payments shall not be made in excess of 700 weeks.

(d) If an employee who is being paid compensation for permanent total disability becomes rehabilitated to the extent that she or he establishes an earning capacity, the employee shall be paid, instead of the compensation provided in paragraph (a), benefits pursuant to subsection (3). The *department* ~~division~~ shall adopt rules to enable a permanently and totally disabled employee who may have reestablished an earning capacity to undertake a trial period of reemployment without prejudicing her or his return to permanent total status in the case that such employee is unable to sustain an earning capacity.

(e)1. The employer's or carrier's right to conduct vocational evaluations or testing pursuant to s. 440.491 continues even after the employee has been accepted or adjudicated as entitled to compensation under this chapter. This right includes, but is not limited to, instances in which such evaluations or tests are recommended by a treating physician or independent medical-examination physician, instances warranted by a change in the employee's medical condition, or instances in which the employee appears to be making appropriate progress in recuperation. This right may not be exercised more than once every calendar year.

2. The carrier must confirm the scheduling of the vocational evaluation or testing in writing, and must notify employee's counsel, if any, at least 7 days before the date on which vocational evaluation or testing is scheduled to occur.

3. Pursuant to an order of the judge of compensation claims, the employer or carrier may withhold payment of benefits for permanent total disability or supplements for any period during which the employee willfully fails or refuses to appear without good cause for the scheduled vocational evaluation or testing.

(f)1. If permanent total disability results from injuries that occurred subsequent to June 30, 1955, and for which the liability of the employer for compensation has not been discharged under s. 440.20(11), the injured employee shall receive additional weekly compensation benefits equal to 5 percent of her or his weekly compensation rate, as established pursuant to the law in effect on the date of her or his injury, multiplied by the number of calendar years since the date of injury. The weekly compensation payable and the additional benefits payable under this paragraph, when combined, may not exceed the maximum weekly compensation rate in effect at the time of payment as determined pursuant to s. 440.12(2). Entitlement to these supplemental payments shall cease at age 62 if the employee is eligible for social security benefits under 42 U.S.C. ss. 402 and 423, whether or not the employee has applied for such benefits. These supplemental benefits shall be paid by the division out of the Workers' Compensation Administration Trust Fund when the injury occurred subsequent to June 30, 1955, and before July 1, 1984. These supplemental benefits shall be paid by the employer when the injury occurred on or after July 1, 1984. Supplemental benefits are not payable for any period prior to October 1, 1974.

2.a. The *department* ~~division~~ shall provide by rule for the periodic reporting to the *department* ~~division~~ of all earnings of any nature and social security income by the injured employee entitled to or claiming additional compensation under subparagraph 1. Neither the *department* ~~division~~ nor the employer or carrier shall make any payment of those additional benefits provided by subparagraph 1. for any period during which the employee willfully fails or refuses to report upon request by the *department* ~~division~~ in the manner prescribed by such rules.

b. The *department* ~~division~~ shall provide by rule for the periodic reporting to the employer or carrier of all earnings of any nature and social security income by the injured employee entitled to or claiming benefits for permanent total disability. The employer or carrier is not required to make any payment of benefits for permanent total disability for any period during which the employee willfully fails or refuses to report upon request by the employer or carrier in the manner prescribed by such rules or if any employee who is receiving permanent total disability benefits refuses to apply for or cooperate with the employer or carrier in applying for social security benefits.

3. When an injured employee receives a full or partial lump-sum advance of the employee's permanent total disability compensation benefits, the employee's benefits under this paragraph shall be computed on the employee's weekly compensation rate as reduced by the lump-sum advance.

(2) TEMPORARY TOTAL DISABILITY.—

(a) In case of disability total in character but temporary in quality, 66⅔ percent of the average weekly wages shall be paid to the employee during the continuance thereof, not to exceed 104 weeks except as provided in this subsection, s. 440.12(1), and s. 440.14(3). Once the employee reaches the maximum number of weeks allowed, or the employee reaches the date of maximum medical improvement, whichever occurs earlier, temporary disability benefits shall cease and the injured worker's permanent impairment shall be determined.

(b) Notwithstanding the provisions of paragraph (a), an employee who has sustained the loss of an arm, leg, hand, or foot, has been rendered a paraplegic, paraparetic, quadriplegic, or quadriparetic, or has lost the sight of both eyes shall be paid temporary total disability of 80 percent of her or his average weekly wage. The increased temporary total disability compensation provided for in this paragraph must not extend beyond 6 months from the date of the accident. The compensation provided by this paragraph is not subject to the limits provided in s. 440.12(2), but instead is subject to a maximum weekly compensation rate of $700. If, at the conclusion of this period of increased temporary total disability compensation, the employee is still temporarily totally disabled, the employee shall continue to receive temporary total disability compensation as set forth in paragraphs (a) and (c). The period of time the employee has received this increased compensation will be counted as part of, and not in addition to, the maximum periods of time for which the employee is entitled to compensation under paragraph (a) but not paragraph (c).

(c) Temporary total disability benefits paid pursuant to this subsection shall include such period as may be reasonably necessary for training in the use of artificial members and appliances, and shall include such period as the employee may be receiving training and education under a program pursuant to s. 440.49(1). Notwithstanding s. 440.02(9), the date of maximum medical improvement for purposes of paragraph (3)(b) shall be no earlier than the last day for which such temporary disability benefits are paid.

(d) The *department* ~~division~~ shall, by rule, provide for the periodic reporting to the *department* ~~division~~, employer, or carrier of all earned income, including income from social security, by the injured employee who is entitled to or claiming benefits for temporary total disability. The employer or carrier is not required to make any payment of benefits for temporary total disability for any period during which the employee willfully fails or refuses to report upon request by the employer or carrier in the manner prescribed by the rules. The rule must require the claimant to personally sign the claim form and attest that she or he has reviewed, understands, and acknowledges the foregoing.

(3) PERMANENT IMPAIRMENT AND WAGE-LOSS BENEFITS.—

(a) Impairment benefits.—

1. Once the employee has reached the date of maximum medical improvement, impairment benefits are due and payable within 20 days after the carrier has knowledge of the impairment.

2. The three-member panel, in cooperation with the *department* ~~division~~, shall establish and use a uniform permanent impairment rating schedule. This schedule must be based on medically or scientifically demonstrable findings as well as the systems and criteria set forth in the American Medical Association's Guides to the Evaluation of Permanent Impairment; the Snellen Charts, published by American Medical Association Committee for Eye Injuries; and the

Minnesota Department of Labor and Industry Disability Schedules. The schedule should be based upon objective findings. The schedule shall be more comprehensive than the AMA Guides to the Evaluation of Permanent Impairment and shall expand the areas already addressed and address additional areas not currently contained in the guides. On August 1, 1979, and pending the adoption, by rule, of a permanent schedule, Guides to the Evaluation of Permanent Impairment, copyright 1977, 1971, 1988, by the American Medical Association, shall be the temporary schedule and shall be used for the purposes hereof. For injuries after July 1, 1990, pending the adoption by *department* ~~division~~ rule of a uniform disability rating schedule, the Minnesota Department of Labor and Industry Disability Schedule shall be used unless that schedule does not address an injury. In such case, the Guides to the Evaluation of Permanent Impairment by the American Medical Association shall be used. Determination of permanent impairment under this schedule must be made by a physician licensed under chapter 458, a doctor of osteopathic medicine licensed under chapters 458 and 459, a chiropractic physician licensed under chapter 460, a podiatric physician licensed under chapter 461, an optometrist licensed under chapter 463, or a dentist licensed under chapter 466, as appropriate considering the nature of the injury. No other persons are authorized to render opinions regarding the existence of or the extent of permanent impairment.

3. All impairment income benefits shall be based on an impairment rating using the impairment schedule referred to in subparagraph 2. Impairment income benefits are paid weekly at the rate of 50 percent of the employee's average weekly temporary total disability benefit not to exceed the maximum weekly benefit under s. 440.12. An employee's entitlement to impairment income benefits begins the day after the employee reaches maximum medical improvement or the expiration of temporary benefits, whichever occurs earlier, and continues until the earlier of:

a. The expiration of a period computed at the rate of 3 weeks for each percentage point of impairment; or

b. The death of the employee.

4. After the employee has been certified by a doctor as having reached maximum medical improvement or 6 weeks before the expiration of temporary benefits, whichever occurs earlier, the certifying doctor shall evaluate the condition of the employee and assign an impairment rating, using the impairment schedule referred to in subparagraph 2. Compensation is not payable for the mental, psychological, or emotional injury arising out of depression from being out of work. If the certification and evaluation are performed by a doctor other than the employee's treating doctor, the certification and evaluation must be submitted to the treating doctor, and the treating doctor must indicate agreement or disagreement with the certification and evaluation. The certifying doctor shall issue a written report to the *department* ~~division~~, the employee, and the carrier certifying that maximum medical improvement has been reached, stating the impairment rating, and providing any other information required by the *department by rule* ~~division~~. If the employee has not been certified as having reached maximum medical improvement before the expiration of 102 weeks after the date temporary total disability benefits begin to accrue, the carrier shall notify the treating doctor of the requirements of this section.

5. The carrier shall pay the employee impairment income benefits for a period based on the impairment rating.

6. The *department* ~~division~~ may by rule specify forms and procedures governing the method of payment of wage loss and impairment benefits for dates of accidents before January 1, 1994, and for dates of accidents on or after January 1, 1994.

(b) Supplemental benefits.—

1. All supplemental benefits must be paid in accordance with this subsection. An employee is entitled to supplemental benefits as provided in this paragraph as of the expiration of the impairment period, if:

a. The employee has an impairment rating from the compensable injury of 20 percent or more as determined pursuant to this chapter;

b. The employee has not returned to work or has returned to work earning less than 80 percent of the employee's average weekly wage as a direct result of the employee's impairment; and

c. The employee has in good faith attempted to obtain employment commensurate with the employee's ability to work.

2. If an employee is not entitled to supplemental benefits at the time of payment of the final weekly impairment income benefit because the employee is earning at least 80 percent of the employee's average weekly wage, the employee may become entitled to supplemental benefits at any time within 1 year after the impairment income benefit period ends if:

a. The employee earns wages that are less than 80 percent of the employee's average weekly wage for a period of at least 90 days;

b. The employee meets the other requirements of subparagraph 1.; and

c. The employee's decrease in earnings is a direct result of the employee's impairment from the compensable injury.

3. If an employee earns wages that are at least 80 percent of the employee's average weekly wage for a period of at least 90 days during which the employee is receiving supplemental benefits, the employee ceases to be entitled to supplemental benefits for the filing period. Supplemental benefits that have been terminated shall be reinstated when the employee satisfies the conditions enumerated in subparagraph 2. and files the statement required under subparagraph 5. Notwithstanding any other provision, if an employee is not entitled to supplemental benefits for 12 consecutive months, the employee ceases to be entitled to any additional income benefits for the compensable injury. If the employee is discharged within 12 months after losing entitlement under this subsection, benefits may be reinstated if the employee was discharged at that time with the intent to deprive the employee of supplemental benefits.

~~4. During the period that impairment income benefits or supplemental income benefits are being paid, the carrier has the affirmative duty to determine at least annually whether any extended unemployment or underemployment is a direct result of the employee's impairment. To accomplish this purpose, the division may require periodic reports from the employee and the carrier, and it may, at the carrier's expense, require any physical or other examinations, vocational assessments, or other tests or diagnoses necessary to verify that the carrier is performing its duty. Not more than once in each 12 calendar months, the employee and the carrier may each request that the division review the status of the employee and determine whether the carrier has performed its duty with respect to whether the employee's unemployment or underemployment is a direct result of impairment from the compensable injury.~~

4.~~5.~~ After the initial determination of supplemental benefits, the employee must file a statement with the carrier stating that the employee has earned less than 80 percent of the employee's average weekly wage as a direct result of the employee's impairment, stating the amount of wages the employee earned in the filing period, and stating that the employee has in good faith sought employment commensurate with the employee's ability to work. The statement must be filed quarterly on a form and in the manner prescribed by the *department* ~~division~~. The *department* ~~division~~ may modify the filing period as appropriate to an individual case. Failure to file a statement relieves the carrier of liability for supplemental benefits for the period during which a statement is not filed.

5.~~6.~~ The carrier shall begin payment of supplemental benefits not later than the seventh day after the expiration date of the impairment income benefit period and shall continue to timely pay those benefits. The carrier may request a mediation conference for the purpose of contesting the employee's entitlement to or the amount of supplemental income benefits.

6.~~7.~~ Supplemental benefits are calculated quarterly and paid monthly. For purposes of calculating supplemental benefits, 80 percent of the employee's average weekly wage and the average wages the

employee has earned per week are compared quarterly. For purposes of this paragraph, if the employee is offered a bona fide position of employment that the employee is capable of performing, given the physical condition of the employee and the geographic accessibility of the position, the employee's weekly wages are considered equivalent to the weekly wages for the position offered to the employee.

7.~~8.~~ Supplemental benefits are payable at the rate of 80 percent of the difference between 80 percent of the employee's average weekly wage determined pursuant to s. 440.14 and the weekly wages the employee has earned during the reporting period, not to exceed the maximum weekly income benefit under s. 440.12.

8.~~9.~~ The *department* ~~division~~ may by rule define terms that are necessary for the administration of this section and forms and procedures governing the method of payment of supplemental benefits for dates of accidents before January 1, 1994, and for dates of accidents on or after January 1, 1994.

(c) Duration of temporary impairment and supplemental income benefits.—The employee's eligibility for temporary benefits, impairment income benefits, and supplemental benefits terminates on the expiration of 401 weeks after the date of injury.

(4) TEMPORARY PARTIAL DISABILITY.—

(a) In case of temporary partial disability, compensation shall be equal to 80 percent of the difference between 80 percent of the employee's average weekly wage and the salary, wages, and other remuneration the employee is able to earn, as compared weekly; however, the weekly benefits may not exceed an amount equal to 66⅔ percent of the employee's average weekly wage at the time of injury. In order to simplify the comparison of the preinjury average weekly wage with the salary, wages, and other remuneration the employee is able to earn, the *department* ~~division~~ may by rule provide for the modification of the weekly comparison so as to coincide as closely as possible with the injured worker's pay periods. The amount determined to be the salary, wages, and other remuneration the employee is able to earn shall in no case be less than the sum actually being earned by the employee, including earnings from sheltered employment.

(b) Such benefits shall be paid during the continuance of such disability, not to exceed a period of 104 weeks, as provided by this subsection and subsection (2). Once the injured employee reaches the maximum number of weeks, temporary disability benefits cease and the injured worker's permanent impairment must be determined. The *department* ~~division~~ may by rule specify forms and procedures governing the method of payment of temporary disability benefits for dates of accidents before January 1, 1994, and for dates of accidents on or after January 1, 1994.

(5) SUBSEQUENT INJURY.—

(a) The fact that an employee has suffered previous disability, impairment, anomaly, or disease, or received compensation therefor, shall not preclude her or him from benefits for a subsequent aggravation or acceleration of the preexisting condition nor preclude benefits for death resulting therefrom, except that no benefits shall be payable if the employee, at the time of entering into the employment of the employer by whom the benefits would otherwise be payable, falsely represents herself or himself in writing as not having previously been disabled or compensated because of such previous disability, impairment, anomaly, or disease and the employer detrimentally relies on the misrepresentation. Compensation for temporary disability, medical benefits, and wage-loss benefits shall not be subject to apportionment.

(b) If a compensable permanent impairment, or any portion thereof, is a result of aggravation or acceleration of a preexisting condition, or is the result of merger with a preexisting impairment, an employee eligible to receive impairment benefits under paragraph (3)(a) shall receive such benefits for the total impairment found to result, excluding the degree of impairment existing at the time of the subject accident or injury or which would have existed by the time of the impairment rating without the intervention of the compensable accident or injury. The degree of permanent impairment attributable to the accident or injury shall be compensated in accordance with paragraph (3)(a). As used in this paragraph, "merger" means the combining of a preexisting permanent impairment with a subsequent compensable permanent impairment which, when the effects of both are considered together, result in a permanent impairment rating which is greater than the sum of the two permanent impairment ratings when each impairment is considered individually.

(6) OBLIGATION TO REHIRE.—If the employer has not in good faith made available to the employee, within a 100-mile radius of the employee's residence, work appropriate to the employee's physical limitations within 30 days after the carrier notifies the employer of maximum medical improvement and the employee's physical limitations, the employer shall pay to the *department* ~~division~~ for deposit into the Workers' Compensation Administration Trust Fund a fine of $250 for every $5,000 of the employer's workers' compensation premium or payroll, not to exceed $2,000 per violation, as the *department* ~~division~~ requires by rule. The employer is not subject to this subsection if the employee is receiving permanent total disability benefits or if the employer has 50 or fewer employees.

(7) EMPLOYEE REFUSES EMPLOYMENT.—If an injured employee refuses employment suitable to the capacity thereof, offered to or procured therefor, such employee shall not be entitled to any compensation at any time during the continuance of such refusal unless at any time in the opinion of the judge of compensation claims such refusal is justifiable.

(8) EMPLOYEE LEAVES EMPLOYMENT.—If an injured employee, when receiving compensation for temporary partial disability, leaves the employment of the employer by whom she or he was employed at the time of the accident for which such compensation is being paid, the employee shall, upon securing employment elsewhere, give to such former employer an affidavit in writing containing the name of her or his new employer, the place of employment, and the amount of wages being received at such new employment; and, until she or he gives such affidavit, the compensation for temporary partial disability will cease. The employer by whom such employee was employed at the time of the accident for which such compensation is being paid may also at any time demand of such employee an additional affidavit in writing containing the name of her or his employer, the place of her or his employment, and the amount of wages she or he is receiving; and if the employee, upon such demand, fails or refuses to make and furnish such affidavit, her or his right to compensation for temporary partial disability shall cease until such affidavit is made and furnished.

(9) EMPLOYEE BECOMES INMATE OF INSTITUTION.—In case an employee becomes an inmate of a public institution, then no compensation shall be payable unless she or he has dependent upon her or him for support a person or persons defined as dependents elsewhere in this chapter, whose dependency shall be determined as if the employee were deceased and to whom compensation would be paid in case of death; and such compensation as is due such employee shall be paid such dependents during the time she or he remains such inmate.

(10) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER AND FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE ACT.—

(a) Weekly compensation benefits payable under this chapter for disability resulting from injuries to an employee who becomes eligible for benefits under 42 U.S.C. s. 423 shall be reduced to an amount whereby the sum of such compensation benefits payable under this chapter and such total benefits otherwise payable for such period to the employee and her or his dependents, had such employee not been entitled to benefits under this chapter, under 42 U.S.C. ss. 402 and 423, does not exceed 80 percent of the employee's average weekly wage. However, this provision shall not operate to reduce an injured worker's benefits under this chapter to a greater extent than such benefits would have otherwise been reduced under 42 U.S.C. s. 424(a). This reduction of compensation benefits is not applicable to any compensation benefits payable for any week subsequent to the week in which the injured worker reaches the age of 62 years.

(b) If the provisions of 42 U.S.C. s. 424(a) are amended to provide for a reduction or increase of the percentage of average current earnings that the sum of compensation benefits payable under this chapter and the benefits payable under 42 U.S.C. ss. 402 and 423 can equal, the amount of the reduction of benefits provided in this subsection shall be reduced or increased accordingly. The *department* ~~division~~ may by rule specify forms and procedures governing the method for calculating and administering the offset of benefits payable under this chapter and benefits payable under 42 U.S.C. ss. 402 and 423. The *department* ~~division~~ shall have first priority in taking any available social security offsets on dates of accidents occurring before July 1, 1984.

(c) No disability compensation benefits payable for any week, including those benefits provided by paragraph (1)(f), shall be reduced pursuant to this subsection until the Social Security Administration determines the amount otherwise payable to the employee under 42 U.S.C. ss. 402 and 423 and the employee has begun receiving such social security benefit payments. The employee shall, upon demand by the *department* ~~division~~, the employer, or the carrier, authorize the Social Security Administration to release disability information relating to her or him and authorize the Division of Unemployment Compensation to release unemployment compensation information relating to her or him, in accordance with rules to be promulgated by the *department* ~~division~~ prescribing the procedure and manner for requesting the authorization and for compliance by the employee. Neither the *department* ~~division~~ nor the employer or carrier shall make any payment of benefits for total disability or those additional benefits provided by paragraph (1)(f) for any period during which the employee willfully fails or refuses to authorize the release of information in the manner and within the time prescribed by such rules. The authority for release of disability information granted by an employee under this paragraph shall be effective for a period not to exceed 12 months, such authority to be renewable as the *department* ~~division~~ may prescribe by rule.

(d) If compensation benefits are reduced pursuant to this subsection, the minimum compensation provisions of s. 440.12(2) do not apply.

(11) EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER WHO HAS RECEIVED OR IS ENTITLED TO RECEIVE UNEMPLOYMENT COMPENSATION.—

(a) No compensation benefits shall be payable for temporary total disability or permanent total disability under this chapter for any week in which the injured employee has received, or is receiving, unemployment compensation benefits.

(b) If an employee is entitled to temporary partial benefits pursuant to subsection (4) and unemployment compensation benefits, such unemployment compensation benefits shall be primary and the temporary partial benefits shall be supplemental only, the sum of the two benefits not to exceed the amount of temporary partial benefits which would otherwise be payable.

(12) FULL-PAY STATUS FOR CERTAIN LAW ENFORCEMENT OFFICERS.—Any law enforcement officer as defined in s. 943.10(1), (2), or (3) who, while acting within the course of employment as provided by s. 440.091, is maliciously or intentionally injured and who thereby sustains a job-connected disability compensable under this chapter shall be carried in full-pay status rather than being required to use sick, annual, or other leave. Full-pay status shall be granted only after submission to the employing agency's head of a medical report which gives a current diagnosis of the employee's recovery and ability to return to work. In no case shall the employee's salary and workers' compensation benefits exceed the amount of the employee's regular salary requirements.

(13) REPAYMENT.—If an employee has received a sum as an indemnity benefit under any classification or category of benefit under this chapter to which she or he is not entitled, the employee is liable to repay that sum to the employer or the carrier or to have that sum deducted from future benefits, regardless of the classification of benefits, payable to the employee under this chapter; however, a partial payment of the total repayment may not exceed 20 percent of the amount of the biweekly payment.

Section 23. Section 440.17, Florida Statutes, is amended to read:

440.17 Guardian for minor or incompetent.—Prior to the filing of a claim, the *department* ~~division~~, and after the filing of a claim, a judge of compensation claims, may require the appointment by a court of competent jurisdiction, for any person who is mentally incompetent or a minor, of a guardian or other representative to receive compensation payable to such person under this chapter and to exercise the powers granted to or to perform the duties required of such person under this chapter; however, the judge of compensation claims, in the judge of compensation claims' discretion, may designate in the compensation award a person to whom payment of compensation may be paid for a minor or incompetent, in which event payment to such designated person shall discharge all liability for such compensation.

Section 24. Section 440.185, Florida Statutes, is amended to read:

440.185 Notice of injury or death; reports; penalties for violations.—

(1) An employee who suffers an injury arising out of and in the course of employment shall advise his or her employer of the injury within 30 days after the date of or initial manifestation of the injury. Failure to so advise the employer shall bar a petition under this chapter unless:

(a) The employer or the employer's agent had actual knowledge of the injury;

(b) The cause of the injury could not be identified without a medical opinion and the employee advised the employer within 30 days after obtaining a medical opinion indicating that the injury arose out of and in the course of employment;

(c) The employer did not put its employees on notice of the requirements of this section by posting notice pursuant to s. 440.055; or

(d) Exceptional circumstances, outside the scope of paragraph (a) or paragraph (b) justify such failure.

In the event of death arising out of and in the course of employment, the requirements of this subsection shall be satisfied by the employee's agent or estate. Documents prepared by counsel in connection with litigation, including but not limited to notices of appearance, petitions, motions, or complaints, shall not constitute notice for purposes of this section.

(2) Within 7 days after actual knowledge of injury or death, the employer shall report such injury or death to its carrier, in a format prescribed by the *department* ~~division~~, and shall provide a copy of such report to the employee or the employee's estate. The report of injury shall contain the following information:

(a) The name, address, and business of the employer;

(b) The name, social security number, street, mailing address, telephone number, and occupation of the employee;

(c) The cause and nature of the injury or death;

(d) The year, month, day, and hour when, and the particular locality where, the injury or death occurred; and

(e) Such other information as the *department* ~~division~~ may require.

The carrier shall, within 14 days after the employer's receipt of the form reporting the injury, file the information required by this subsection with the *department* ~~division~~ in Tallahassee. However, the *department* ~~division~~ may by rule provide for a different reporting system for those types of injuries which it determines should be reported in a different manner and for those cases which involve minor injuries requiring professional medical attention in which the employee does not lose more than 7 days of work as a result of the injury and is able to return to the job immediately after treatment and resume regular work.

(3) In addition to the requirements of subsection (2), the employer shall notify the *department* ~~division~~ within 24 hours by telephone or telegraph of any injury resulting in death. However, this special notice shall not be required when death results subsequent to the submission

to the *department* ~~division~~ of a previous report of the injury pursuant to subsection (2).

(4) Within 3 days after the employer or the employee informs the carrier of an injury the carrier shall mail to the injured worker an informational brochure approved by the *department* ~~division~~ which sets forth in clear and understandable language an explanation of the rights, benefits, procedures for obtaining benefits and assistance, criminal penalties, and obligations of injured workers and their employers under the Florida Workers' Compensation Law. Annually, the carrier or its third-party administrator shall mail to the employer an informational brochure approved by the *department* ~~division~~ which sets forth in clear and understandable language an explanation of the rights, benefits, procedures for obtaining benefits and assistance, criminal penalties, and obligations of injured workers and their employers under the Florida Workers' Compensation Law. All such informational brochures shall contain a notice that clearly states in substance the following: "Any person who, knowingly and with intent to injure, defraud, or deceive any employer or employee, insurance company, or self-insured program, files a statement of claim containing any false or misleading information commits a felony of the third degree."

(5) Additional reports with respect to such injury and of the condition of such employee, including copies of medical reports, funeral expenses, and wage statements, shall be filed by the employer or carrier to the *department* ~~division~~ at such times and in such manner as the *department* ~~division~~ may prescribe by rule. In carrying out ~~its~~ responsibilities under this chapter, the *department and agency* ~~division~~ may by rule provide for the obtaining of any medical records relating to medical treatment provided pursuant to this chapter, notwithstanding the provisions of ss. 90.503 and 395.3025(4).

(6) In the absence of a stipulation by the parties, reports provided for in subsection (2), subsection (4), or subsection (5) shall not be evidence of any fact stated in such report in any proceeding relating thereto, except for medical reports which, if otherwise qualified, may be admitted at the discretion of the judge of compensation claims.

(7) Every carrier shall file with the *department* ~~division~~ within 21 days after the issuance of a policy or contract of insurance such policy information as the *department* ~~division~~ may require, including notice of whether the policy is a minimum premium policy. Notice of cancellation or expiration of a policy as set out in s. 440.42(3) shall be mailed to the *department* ~~division~~ in accordance with rules *adopted* ~~promulgated~~ by the *department* ~~division~~ under chapter 120.

(8) When a claimant, employer, or carrier has the right, or is required, to mail a report or notice with required copies within the times prescribed in subsection (2), subsection (4), or subsection (5), such mailing will be completed and in compliance with this section if it is postmarked and mailed prepaid to the appropriate recipient prior to the expiration of the time periods prescribed in this section.

(9) Any employer or carrier who fails or refuses to timely send any form, report, or notice required by this section shall be subject to a civil penalty not to exceed $500 for each such failure or refusal. However, any employer who fails to notify the carrier of the injury on the prescribed form or by letter within the 7 days required in subsection (2) shall be liable for the civil penalty, which shall be paid by the employer and not the carrier. Failure by the employer to meet its obligations under subsection (2) shall not relieve the carrier from liability for the civil penalty if it fails to comply with subsections (4) and (5).

(10) The *department* ~~division~~ may by rule prescribe forms and procedures governing the submission of the change in claims administration report and the risk class code and standard industry code report for all lost time and denied lost-time cases. The *department* ~~division~~ may by rule define terms that are necessary for the effective administration of this section.

(11) Any information in a report of injury or illness filed pursuant to this section that would identify an ill or injured employee is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 25. Subsection (1) of section 440.191, Florida Statutes, is amended to read:

440.191 Employee Assistance and Ombudsman Office.—

(1)(a) In order to effect the self-executing features of the Workers' Compensation Law, this chapter shall be construed to permit injured employees and employers or the employer's carrier to resolve disagreements without undue expense, costly litigation, or delay in the provisions of benefits. It is the duty of all who participate in the workers' compensation system, including, but not limited to, carriers, service providers, health care providers, attorneys, employers, and employees, to attempt to resolve disagreements in good faith and to cooperate with the *department's* ~~division's~~ efforts to resolve disagreements between the parties. The *department* ~~division~~ may by rule prescribe definitions that are necessary for the effective administration of this section.

(b) An Employee Assistance and Ombudsman Office is created within the *department* ~~Division of Workers' Compensation~~ to inform and assist injured workers, employers, carriers, and health care providers in fulfilling their responsibilities under this chapter. The *department* ~~division~~ may by rule specify forms and procedures for administering requests for assistance provided by this section.

(c) The Employee Assistance and Ombudsman Office~~, Division of Workers' Compensation,~~ shall be a resource available to all employees who participate in the workers' compensation system and shall take all steps necessary to educate and disseminate information to employees and employers.

Section 26. Subsections (1) and (8) of section 440.192, Florida Statutes, are amended to read:

440.192 Procedure for resolving benefit disputes.—

(1) Subject to s. 440.191, any employee who has not received a benefit to which the employee believes she or he is entitled under this chapter shall serve by certified mail upon the employer, the employer's carrier, and the *department* ~~division~~ in Tallahassee a petition for benefits that meets the requirements of this section. The *department* ~~division~~ shall refer the petition to the Office of the Judges of Compensation Claims.

(8) Within 14 days after receipt of a petition for benefits by certified mail, the carrier must either pay the requested benefits without prejudice to its right to deny within 120 days from receipt of the petition or file a notice of denial with the *department* ~~division~~. The carrier must list all benefits requested but not paid and explain its justification for nonpayment in the notice of denial. A carrier that does not deny compensability in accordance with s. 440.20(4) is deemed to have accepted the employee's injuries as compensable, unless it can establish material facts relevant to the issue of compensability that could not have been discovered through reasonable investigation within the 120-day period. The carrier shall provide copies of the notice to the filing party, employer, and claimant by certified mail.

Section 27. Subsections (1), (3), and (4) of section 440.1925, Florida Statutes, are amended to read:

440.1925 Procedure for resolving maximum medical improvement or permanent impairment disputes.—

(1) Notwithstanding the limitations on carrier independent medical examinations in s. 440.13, an employee or carrier who wishes to obtain an opinion other than the opinion of the treating physician or *an agency* ~~a division~~ advisor on the issue of permanent impairment may obtain one independent medical examination, except that the employee or carrier who selects the treating physician is not entitled to obtain an alternate opinion on the issue of permanent impairment, unless the parties otherwise agree. This section and s. 440.13(2) do not permit an employee or a carrier to obtain an additional medical opinion on the issue of permanent impairment by requesting an alternate treating physician pursuant to s. 440.13.

(3) Disputes shall be resolved under this section when:

(a) A carrier that is entitled to obtain a determination of an employee's date of maximum medical improvement or permanent impairment has done so;

(b) The independent medical examiner's opinion on the date of the employee's maximum medical improvement and degree or permanent impairment differs from the opinion of the employee's treating physician on either of those issues, or from the opinion of the expert medical advisor appointed by the *agency* ~~division~~ on the degree of permanent impairment; or

(c) The carrier denies any portion of an employee's claim petition for benefits due to disputed maximum medical improvement or permanent impairment issues.

(4) Only opinions of the employee's treating physician, *an agency* ~~a division~~ medical advisor, or an independent medical examiner are admissible in proceedings before a judge of compensation claims to resolve maximum medical improvement or impairment disputes.

Section 28. Subsections (3), (6), (8), (9), (10), (11), (12), (15), (16), and (17) of section 440.20, Florida Statutes, are amended to read:

440.20 Time for payment of compensation; penalties for late payment.—

(3) Upon making payment, or upon suspension or cessation of payment for any reason, the carrier shall immediately notify the *department* ~~division~~ that it has commenced, suspended, or ceased payment of compensation. The *department* ~~division~~ may require such notification in any format *and manner* it deems necessary to obtain accurate and timely reporting.

(6) If any installment of compensation for death or dependency benefits, disability, permanent impairment, or wage loss payable without an award is not paid within 7 days after it becomes due, as provided in subsection (2), subsection (3), or subsection (4), there shall be added to such unpaid installment a punitive penalty of an amount equal to 20 percent of the unpaid installment or $5, which shall be paid at the same time as, but in addition to, such installment of compensation, unless notice is filed under subsection (4) or unless such nonpayment results from conditions over which the employer or carrier had no control. When any installment of compensation payable without an award has not been paid within 7 days after it became due and the claimant concludes the prosecution of the claim before a judge of compensation claims without having specifically claimed additional compensation in the nature of a penalty under this section, the claimant will be deemed to have acknowledged that, owing to conditions over which the employer or carrier had no control, such installment could not be paid within the period prescribed for payment and to have waived the right to claim such penalty. However, during the course of a hearing, the judge of compensation claims shall on her or his own motion raise the question of whether such penalty should be awarded or excused. The *department* ~~division~~ may assess without a hearing the punitive penalty against either the employer or the insurance carrier, depending upon who was at fault in causing the delay. The insurance policy cannot provide that this sum will be paid by the carrier if the *department* ~~division~~ or the judge of compensation claims determines that the punitive penalty should be made by the employer rather than the carrier. Any additional installment of compensation paid by the carrier pursuant to this section shall be paid directly to the employee.

(8) In addition to any other penalties provided by this chapter for late payment, if any installment of compensation is not paid when it becomes due, the employer, carrier, or servicing agent shall pay interest thereon at the rate of 12 percent per year from the date the installment becomes due until it is paid, whether such installment is payable without an order or under the terms of an order. The interest payment shall be the greater of the amount of interest due or $5.

(a) Within 30 days after final payment of compensation has been made, the employer, carrier, or servicing agent shall send to the *department* ~~division~~ a notice, in accordance with a ~~form~~ *format and manner* prescribed by the *department* ~~division~~, stating that such final payment has been made and stating the total amount of compensation paid, the name of the employee and of any other person to whom compensation has been paid, the date of the injury or death, and the date to which compensation has been paid.

(b) If the employer, carrier, or servicing agent fails to so notify the *department* ~~division~~ within such time, the *department* ~~division~~ shall assess against such employer, carrier, or servicing agent a civil penalty in an amount not over $100.

(c) In order to ensure carrier compliance under this chapter *and provisions of the insurance code*, the *department* ~~division~~ shall monitor the performance of carriers *by conducting market conduct examinations, as provided in s. 624.3161, and conducting investigations, as provided in s. 624.317*. The *department* ~~division~~ shall *impose penalties on* ~~establish by rule minimum performance standards for~~ carriers ~~to ensure that a minimum of 90 percent of all compensation benefits are timely paid. The division shall fine a carrier as provided in s. 440.13(11)(b) up to $50~~ for each late payment of compensation *pursuant to s. 624.4211* ~~that is below the minimum 90 percent performance standard~~. This paragraph does not affect the imposition of any penalties or interest due to the claimant. If a carrier contracts with a servicing agent to fulfill its administrative responsibilities under this chapter, the payment practices of the servicing agent are deemed the payment practices of the carrier for the purpose of assessing penalties against the carrier.

(9) The *department* ~~division~~ may upon its own initiative at any time in a case in which payments are being made without an award investigate same and shall, in any case in which the right to compensation is controverted, or in which payments of compensation have been stopped or suspended, upon receipt of notice from any person entitled to compensation or from the employer that the right to compensation is controverted or that payments of compensation have been stopped or suspended, make such investigations, cause such medical examination to be made, or hold such hearings, and take such further action as it considers will properly protect the rights of all parties.

(10) Whenever the *department* ~~division~~ deems it advisable, it may require any employer to make a deposit with the Treasurer to secure the prompt and convenient payments of such compensation; and payments therefrom upon any awards shall be made upon order of the *department* ~~division~~ or judge of compensation claims.

(11)(a) Upon joint petition of all interested parties, a lump-sum payment in exchange for the employer's or carrier's release from liability for future medical expenses, as well as future payments of compensation expenses and any other benefits provided under this chapter, shall be allowed at any time in any case in which the employer or carrier has filed a written notice of denial within 120 days after the date of the injury, and the judge of compensation claims at a hearing to consider the settlement proposal finds a justiciable controversy as to legal or medical compensability of the claimed injury or the alleged accident. The employer or carrier may not pay any attorney's fees on behalf of the claimant for any settlement under this section unless expressly authorized elsewhere in this chapter. Upon the joint petition of all interested parties and after giving due consideration to the interests of all interested parties, the judge of compensation claims may enter a compensation order approving and authorizing the discharge of the liability of the employer for compensation and remedial treatment, care, and attendance, as well as rehabilitation expenses, by the payment of a lump sum. Such a compensation order so entered upon joint petition of all interested parties is not subject to modification or review under s. 440.28. If the settlement proposal together with supporting evidence is not approved by the judge of compensation claims, it shall be considered void. Upon approval of a lump-sum settlement under this subsection, the judge of compensation claims shall send a report to the Chief Judge of the amount of the settlement and a statement of the nature of the controversy. The Chief Judge shall keep a record of all such reports filed by each judge of compensation claims and shall submit to the Legislature a summary of all such reports filed under this subsection annually by September 15.

(b) Upon joint petition of all interested parties, a lump-sum payment in exchange for the employer's or carrier's release from liability for

future medical expenses, as well as future payments of compensation and rehabilitation expenses, and any other benefits provided under this chapter, may be allowed at any time in any case after the injured employee has attained maximum medical improvement. An employer or carrier may not pay any attorney's fees on behalf of the claimant for any settlement, unless expressly authorized elsewhere in this chapter. A compensation order so entered upon joint petition of all interested parties shall not be subject to modification or review under s. 440.28. However, a judge of compensation claims is not required to approve any award for lump-sum payment when it is determined by the judge of compensation claims that the payment being made is in excess of the value of benefits the claimant would be entitled to under this chapter. The judge of compensation claims shall make or cause to be made such investigations as she or he considers necessary, in each case in which the parties have stipulated that a proposed final settlement of liability of the employer for compensation shall not be subject to modification or review under s. 440.28, to determine whether such final disposition will definitely aid the rehabilitation of the injured worker or otherwise is clearly for the best interests of the person entitled to compensation and, in her or his discretion, may have an investigation made by the *Department of Education* ~~Rehabilitation Section of the Division of Workers' Compensation~~. The joint petition and the report of any investigation so made will be deemed a part of the proceeding. An employer shall have the right to appear at any hearing pursuant to this subsection which relates to the discharge of such employer's liability and to present testimony at such hearing. The carrier shall provide reasonable notice to the employer of the time and date of any such hearing and inform the employer of her or his rights to appear and testify. When the claimant is represented by counsel or when the claimant and carrier or employer are represented by counsel, final approval of the lump-sum settlement agreement, as provided for in a joint petition and stipulation, shall be approved by entry of an order within 7 days after the filing of such joint petition and stipulation without a hearing, unless the judge of compensation claims determines, in her or his discretion, that additional testimony is needed before such settlement can be approved or disapproved and so notifies the parties. The probability of the death of the injured employee or other person entitled to compensation before the expiration of the period during which such person is entitled to compensation shall, in the absence of special circumstances making such course improper, be determined in accordance with the most recent United States Life Tables published by the National Office of Vital Statistics of the United States Department of Health and Human Services. The probability of the happening of any other contingency affecting the amount or duration of the compensation, except the possibility of the remarriage of a surviving spouse, shall be disregarded. As a condition of approving a lump-sum payment to a surviving spouse, the judge of compensation claims, in the judge of compensation claims' discretion, may require security which will ensure that, in the event of the remarriage of such surviving spouse, any unaccrued future payments so paid may be recovered or recouped by the employer or carrier. Such applications shall be considered and determined in accordance with s. 440.25.

(c) This section applies to all claims that the parties have not previously settled, regardless of the date of accident.

(12)(a) Liability of an employer for future payments of compensation may not be discharged by advance payment unless prior approval of a judge of compensation claims or the *department* ~~division~~ has been obtained as hereinafter provided. The approval shall not constitute an adjudication of the claimant's percentage of disability.

(b) When the claimant has reached maximum recovery and returned to her or his former or equivalent employment with no substantial reduction in wages, such approval of a reasonable advance payment of a part of the compensation payable to the claimant may be given informally by letter by a judge of compensation claims *or*~~,~~ by the *department* ~~division director, or by the administrator of claims of the division~~.

(c) In the event the claimant has not returned to the same or equivalent employment with no substantial reduction in wages or has suffered a substantial loss of earning capacity or a physical impairment, actual or apparent:

1. An advance payment of compensation not in excess of $2,000 may be approved informally by letter, without hearing, by any judge of compensation claims or the Chief Judge.

2. An advance payment of compensation not in excess of $2,000 may be ordered by any judge of compensation claims after giving the interested parties an opportunity for a hearing thereon pursuant to not less than 10 days' notice by mail, unless such notice is waived, and after giving due consideration to the interests of the person entitled thereto. When the parties have stipulated to an advance payment of compensation not in excess of $2,000, such advance may be approved by an order of a judge of compensation claims, with or without hearing, or informally by letter by any such judge of compensation claims, or by the *department* ~~division director~~, if such advance is found to be for the best interests of the person entitled thereto.

3. When the parties have stipulated to an advance payment in excess of $2,000, subject to the approval of the *department* ~~division~~, such payment may be approved by a judge of compensation claims by order if the judge finds that such advance payment is for the best interests of the person entitled thereto and is reasonable under the circumstances of the particular case. The judge of compensation claims shall make or cause to be made such investigations as she or he considers necessary concerning the stipulation and, in her or his discretion, may have an investigation of the matter made by the *Department of Education* ~~Rehabilitation Section of the division~~. The stipulation and the report of any investigation shall be deemed a part of the record of the proceedings.

(d) When an application for an advance payment in excess of $2,000 is opposed by the employer or carrier, it shall be heard by a judge of compensation claims after giving the interested parties not less than 10 days' notice of such hearing by mail, unless such notice is waived. In her or his discretion, the judge of compensation claims may have an investigation of the matter made by the *Department of Education* ~~Rehabilitation Section of the division~~, in which event the report and recommendation of that section will be deemed a part of the record of the proceedings. If the judge of compensation claims finds that such advance payment is for the best interests of the person entitled to compensation, will not materially prejudice the rights of the employer and carrier, and is reasonable under the circumstances of the case, she or he may order the same paid. However, in no event may any such advance payment under this paragraph be granted in excess of $7,500 or 26 weeks of benefits in any 48-month period, whichever is greater, from the date of the last advance payment.

(15)(a) The *department* ~~division~~ shall examine on an ongoing basis claims files *in accordance with ss. 624.3161 and 624.310(5)* in order to identify questionable claims-handling techniques, questionable patterns or practices of claims, or a pattern of repeated unreasonably controverted claims by employers, carriers, *and* self-insurers~~, health care providers, health care facilities, training and education providers, or any others~~ providing services to employees pursuant to this chapter ~~and may certify its findings to the Department of Insurance~~. *If the department finds* such questionable techniques, patterns, or repeated unreasonably controverted claims as constitute a general business practice of a carrier, ~~in the judgment of the division shall be certified in its findings by the division to the Department of Insurance or such other appropriate licensing agency. Such certification by the division is exempt from the provisions of chapter 120. Upon receipt of any such certification,~~ the department ~~of Insurance~~ shall take appropriate action so as to bring such general business practices to a halt pursuant to s. 440.38(3)(a) *or may impose penalties pursuant to s. 624.4211*. The *department* ~~division~~ may initiate investigations of questionable techniques, patterns, practices, or repeated unreasonably controverted claims. The *department* ~~division~~ may by rule establish *penalties for violations and* forms and procedures for corrective action plans and for auditing carriers.

(b) As to any examination, investigation, or hearing being conducted under this chapter, the *Treasurer or his or her designee* ~~Secretary of Labor and Employment Security or the secretary's designee~~:

1. May administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence; and

2. Shall have the power to subpoena witnesses, compel their attendance and testimony, and require by subpoena the production of books, papers, records, files, correspondence, documents, or other evidence which is relevant to the inquiry.

(c) If any person refuses to comply with any such subpoena or to testify as to any matter concerning which she or he may be lawfully interrogated, the Circuit Court of Leon County or of the county wherein such examination, investigation, or hearing is being conducted, or of the county wherein such person resides, may, on the application of the department, issue an order requiring such person to comply with the subpoena and to testify.

(d) Subpoenas shall be served, and proof of such service made, in the same manner as if issued by a circuit court. Witness fees, costs, and reasonable travel expenses, if claimed, shall be allowed the same as for testimony in a circuit court.

(e) ~~The division shall publish annually a report which indicates the promptness of first payment of compensation records of each carrier or self-insurer so as to focus attention on those carriers or self-insurers with poor payment records for the preceding year. A copy of such report shall be certified to~~ The department ~~of Insurance which~~ shall take appropriate steps so as to cause such poor carrier payment practices to halt pursuant to s. 440.38(3)(a). In addition, the *department* ~~division~~ shall take appropriate action so as to halt such poor payment practices of self-insurers. "Poor payment practice" means a practice of late payment sufficient to constitute a general business practice.

(f) The *department* ~~division~~ shall promulgate rules providing guidelines to carriers, self-insurers, and employers to indicate behavior that may be construed as questionable claims-handling techniques, questionable patterns of claims, repeated unreasonably controverted claims, or poor payment practices.

(16) No penalty assessed under this section may be recouped by any carrier or self-insurer in the rate base, the premium, or any rate filing. ~~In the case of carriers,~~ The Department of Insurance shall enforce this subsection~~; and in the case of self-insurers, the division shall enforce this subsection~~.

(17) The *department* ~~division~~ may by rule establish audit procedures and set standards for the Automated Carrier Performance System.

Section 29. Subsections (1) and (2) of section 440.207, Florida Statutes, are amended to read:

440.207 Workers' compensation system guide.—

(1) The *department* ~~Division of Workers' Compensation of the Department of Labor and Employment Security~~ shall educate all persons providing or receiving benefits pursuant to this chapter as to their rights and responsibilities under this chapter.

(2) The *department* ~~division~~ shall publish an understandable guide to the workers' compensation system which shall contain an explanation of benefits provided; services provided by the Employee Assistance and Ombudsman Office; procedures regarding mediation, the hearing process, and civil and criminal penalties; relevant rules of the *department* ~~division~~; and such other information as the *department* ~~division~~ believes will inform employees, employers, carriers, and those providing services pursuant to this chapter of their rights and responsibilities under this chapter and the rules of the *department* ~~division~~. For the purposes of this subsection, a guide is understandable if the text of the guide is written at a level of readability not exceeding the eighth grade level, as determined by a recognized readability test.

Section 30. Subsection (1) of section 440.211, Florida Statutes, is amended to read:

440.211 Authorization of collective bargaining agreement.—

(1) Subject to the limitation stated in subsection (2), a provision that is mutually agreed upon in any collective bargaining agreement filed with the *department* ~~division~~ between an individually self-insured employer or other employer upon consent of the employer's carrier and a recognized or certified exclusive bargaining representative establishing any of the following shall be valid and binding:

(a) An alternative dispute resolution system to supplement, modify, or replace the provisions of this chapter which may include, but is not limited to, conciliation, mediation, and arbitration. Arbitration held pursuant to this section shall be binding on the parties.

(b) The use of an agreed-upon list of certified health care providers of medical treatment which may be the exclusive source of all medical treatment under this chapter.

(c) The use of a limited list of physicians to conduct independent medical examinations which the parties may agree shall be the exclusive source of independent medical examiners pursuant to this chapter.

(d) A light-duty, modified-job, or return-to-work program.

(e) A vocational rehabilitation or retraining program.

Section 31. Subsections (1), (2), and (3) of section 440.24, Florida Statutes, are amended to read:

440.24 Enforcement of compensation orders; penalties.—

(1) In case of default by the employer or carrier in the payment of compensation due under any compensation order of a judge of compensation claims or other failure by the employer or carrier to comply with such order within 10 days after the order becomes final, any circuit court of this state within the jurisdiction of which the employer or carrier resides or transacts business shall, upon application by the *department* ~~division~~ or any beneficiary under such order, have jurisdiction to issue a rule nisi directing such employer or carrier to show cause why a writ of execution, or such other process as may be necessary to enforce the terms of such order, shall not be issued, and, unless such cause is shown, the court shall have jurisdiction to issue a writ of execution or such other process or final order as may be necessary to enforce the terms of such order of the judge of compensation claims.

(2) In any case where the employer is insured and the carrier fails to comply with any compensation order of a judge of compensation claims or court within 10 days after such order becomes final, ~~the division shall notify~~ the department ~~of Insurance of such failure, and the Department of Insurance~~ shall thereupon suspend the license of such carrier to do an insurance business in this state, until such carrier has complied with such order.

(3) In any case where the employer is a self-insurer and fails to comply with any compensation order of a judge of compensation claims or court within 10 days after such order becomes final, the *department* ~~division~~ may suspend or revoke any authorization previously given to the employer to become a self-insurer, and the *department* ~~division~~ may sell such of the securities deposited by such self-insurer with the *department* ~~division~~ as may be necessary to satisfy such order.

Section 32. Subsections (4), (5), and (7) of section 440.25, Florida Statutes, are amended to read:

440.25 Procedures for mediation and hearings.—

(4)(a) If, on the 10th day following commencement of mediation, the questions in dispute have not been resolved, the judge of compensation claims shall hold a pretrial hearing. The judge of compensation claims shall give the interested parties at least 7 days' advance notice of the pretrial hearing by mail. At the pretrial hearing, the judge of compensation claims shall, subject to paragraph (b), set a date for the final hearing that allows the parties at least 30 days to conduct discovery unless the parties consent to an earlier hearing date.

(b) The final hearing must be held and concluded within 45 days after the pretrial hearing. Continuances may be granted only if the requesting party demonstrates to the judge of compensation claims that the reason for requesting the continuance arises from circumstances beyond the party's control.

(c) The judge of compensation claims shall give the interested parties at least 7 days' advance notice of the final hearing, served upon the interested parties by mail.

(d) The hearing shall be held in the county where the injury occurred, if the injury occurred in this state, unless otherwise agreed to between the parties and authorized by the judge of compensation claims in the county where the injury occurred. If the injury occurred without the state and is one for which compensation is payable under this chapter, then the hearing above referred to may be held in the county of the employer's residence or place of business, or in any other county of the state which will, in the discretion of the Chief Judge, be the most convenient for a hearing. The hearing shall be conducted by a judge of compensation claims, who shall, within 14 days after final hearing, unless otherwise agreed by the parties, determine the dispute in a summary manner. At such hearing, the claimant and employer may each present evidence in respect of such claim and may be represented by any attorney authorized in writing for such purpose. When there is a conflict in the medical evidence submitted at the hearing, the provisions of s. 440.13 shall apply. The report or testimony of the expert medical advisor shall be made a part of the record of the proceeding and shall be given the same consideration by the judge of compensation claims as is accorded other medical evidence submitted in the proceeding; and all costs incurred in connection with such examination and testimony may be assessed as costs in the proceeding, subject to the provisions of s. 440.13. No judge of compensation claims may make a finding of a degree of permanent impairment that is greater than the greatest permanent impairment rating given the claimant by any examining or treating physician, except upon stipulation of the parties.

(e) The order making an award or rejecting the claim, referred to in this chapter as a "compensation order," shall set forth the findings of ultimate facts and the mandate; and the order need not include any other reason or justification for such mandate. The compensation order shall be filed in the office of the *department* ~~division~~ at Tallahassee. A copy of such compensation order shall be sent by mail to the parties and attorneys of record at the last known address of each, with the date of mailing noted thereon.

(f) Each judge of compensation claims is required to submit a special report to the Chief Judge in each contested workers' compensation case in which the case is not determined within 14 days of final hearing. Said form shall be provided by the Chief Judge and shall contain the names of the judge of compensation claims and of the attorneys involved and a brief explanation by the judge of compensation claims as to the reason for such a delay in issuing a final order. The Chief Judge shall compile these special reports into an annual public report to the Governor, the *department* ~~Secretary of Labor and Employment Security~~, the Legislature, The Florida Bar, and the appellate district judicial nominating commissions.

(g) Judges of compensation claims shall adopt and enforce uniform local rules for workers' compensation.

(h) Notwithstanding any other provision of this section, the judge of compensation claims may require the appearance of the parties and counsel before her or him without written notice for an emergency conference where there is a bona fide emergency involving the health, safety, or welfare of an employee. An emergency conference under this section may result in the entry of an order or the rendering of an adjudication by the judge of compensation claims.

(i) To expedite dispute resolution and to enhance the self-executing features of the Workers' Compensation Law, the Chief Judge shall make provision by rule or order for the resolution of appropriate motions by judges of compensation claims without oral hearing upon submission of brief written statements in support and opposition, and for expedited discovery and docketing.

(j) To further expedite dispute resolution and to enhance the self-executing features of the system, those petitions filed in accordance with s. 440.192 that involve a claim for benefits of $5,000 or less shall, in the absence of compelling evidence to the contrary, be presumed to be appropriate for expedited resolution under this paragraph; and any other claim filed in accordance with s. 440.192, upon the written agreement of both parties and application by either party, may similarly be resolved under this paragraph. For purposes of expedited resolution pursuant to this paragraph, the Chief Judge shall make provision by rule or order for expedited and limited discovery and expedited docketing in such cases. At least 15 days prior to hearing, the parties shall exchange and file with the judge of compensation claims a pretrial outline of all issues, defenses, and witnesses on a form promulgated by the Chief Judge; provided, in no event shall such hearing be held without 15 days' written notice to all parties. No pretrial hearing shall be held. The judge of compensation claims shall limit all argument and presentation of evidence at the hearing to a maximum of 30 minutes, and such hearings shall not exceed 30 minutes in length. Neither party shall be required to be represented by counsel. The employer or carrier may be represented by an adjuster or other qualified representative. The employer or carrier and any witness may appear at such hearing by telephone. The rules of evidence shall be liberally construed in favor of allowing introduction of evidence.

(5)(a) Procedures with respect to appeals from orders of judges of compensation claims shall be governed by rules adopted by the Supreme Court. Such an order shall become final 30 days after mailing of copies of such order to the parties, unless appealed pursuant to such rules.

(b) An appellant may be relieved of any necessary filing fee by filing a verified petition of indigency for approval as provided in s. 57.081(1) and may be relieved in whole or in part from the costs for preparation of the record on appeal if, within 15 days after the date notice of the estimated costs for the preparation is served, the appellant files with the judge of compensation claims a copy of the designation of the record on appeal, and a verified petition to be relieved of costs. A verified petition filed prior to the date of service of the notice of the estimated costs shall be deemed not timely filed. The verified petition relating to record costs shall contain a sworn statement that the appellant is insolvent and a complete, detailed, and sworn financial affidavit showing all the appellant's assets, liabilities, and income. Failure to state in the affidavit all assets and income, including marital assets and income, shall be grounds for denying the petition with prejudice. The *department* ~~division~~ shall promulgate rules as may be required pursuant to this subsection, including forms for use in all petitions brought under this subsection. The appellant's attorney, or the appellant if she or he is not represented by an attorney, shall include as a part of the verified petition relating to record costs an affidavit or affirmation that, in her or his opinion, the notice of appeal was filed in good faith and that there is a probable basis for the District Court of Appeal, First District, to find reversible error, and shall state with particularity the specific legal and factual grounds for the opinion. Failure to so affirm shall be grounds for denying the petition. A copy of the verified petition relating to record costs shall be served upon all interested parties, including the *department* ~~division and the Office of the General Counsel, Department of Labor and Employment Security,~~ in Tallahassee. The judge of compensation claims shall promptly conduct a hearing on the verified petition relating to record costs, giving at least 15 days' notice to the appellant, the *department* ~~division~~, and all other interested parties, all of whom shall be parties to the proceedings. The judge of compensation claims may enter an order without such hearing if no objection is filed by an interested party within 20 days from the service date of the verified petition relating to record costs. Such proceedings shall be conducted in accordance with the provisions of this section and with the workers' compensation rules of procedure, to the extent applicable. In the event an insolvency petition is granted, the judge of compensation claims shall direct the *department* ~~division~~ to pay record costs and filing fees from the Workers' Compensation *Administrative* Trust Fund pending final disposition of the costs of appeal. The *department* ~~division~~ may transcribe or arrange for the transcription of the record in any proceeding for which it is ordered to pay the cost of the record. In the event the insolvency petition is denied, the judge of compensation claims may enter an order requiring the petitioner to reimburse the *department* ~~division~~ for costs incurred in opposing the petition, including investigation and travel expenses.

(c) As a condition of filing a notice of appeal to the District Court of Appeal, First District, an employer who has not secured the payment of compensation under this chapter in compliance with s. 440.38 shall file with the notice of appeal a good and sufficient bond, as provided in s. 59.13, conditioned to pay the amount of the demand and any interest and costs payable under the terms of the order if the appeal is dismissed,

or if the District Court of Appeal, First District, affirms the award in any amount. Upon the failure of such employer to file such bond with the judge of compensation claims or the District Court of Appeal, First District, along with the notice of appeal, the District Court of Appeal, First District, shall dismiss the notice of appeal.

(7) An injured employee claiming or entitled to compensation shall submit to such physical examination by a certified expert medical advisor approved by the *agency* ~~division~~ or the judge of compensation claims as the *agency* ~~division~~ or the judge of compensation claims may require. The place or places shall be reasonably convenient for the employee. Such physician or physicians as the employee, employer, or carrier may select and pay for may participate in an examination if the employee, employer, or carrier so requests. Proceedings shall be suspended and no compensation shall be payable for any period during which the employee may refuse to submit to examination. Any interested party shall have the right in any case of death to require an autopsy, the cost thereof to be borne by the party requesting it; and the judge of compensation claims shall have authority to order and require an autopsy and may, in her or his discretion, withhold her or his findings and award until an autopsy is held.

Section 33. Section 440.271, Florida Statutes, is amended to read:

440.271 Appeal of order of judge of compensation claims.—Review of any order of a judge of compensation claims entered pursuant to this chapter shall be by appeal to the District Court of Appeal, First District. Appeals shall be filed in accordance with rules of procedure prescribed by the Supreme Court for review of such orders. The *department* ~~division~~ shall be given notice of any proceedings pertaining to s. 440.25, regarding indigency, or s. 440.49, regarding the Special Disability Trust Fund, and shall have the right to intervene in any proceedings.

Section 34. Section 440.345, Florida Statutes, is amended to read:

440.345 Reporting of attorney's fees.—All fees paid to attorneys for services rendered under this chapter shall be reported to the *department* ~~division~~ as the *department* ~~division~~ requires by rule. The *department* ~~division~~ shall annually summarize such data in a report to the Workers' Compensation Oversight Board.

Section 35. Section 440.35, Florida Statutes, is amended to read:

440.35 Record of injury or death.—Every employer shall keep a record in respect of any injury to an employee. Such record shall contain such information of disability or death in respect of such injury as the *department* ~~division~~ may by regulation require, and shall be available to inspection by the *department* ~~division~~ or by any state authority at such time and under such conditions as the *department* ~~division~~ may by regulation prescribe.

Section 36. Subsections (1), (2), and (3) of section 440.38, Florida Statutes, are amended to read:

440.38 Security for compensation; insurance carriers and self-insurers.—

(1) Every employer shall secure the payment of compensation under this chapter:

(a) By insuring and keeping insured the payment of such compensation with any stock company or mutual company or association or exchange, authorized to do business in the state;

(b) By furnishing satisfactory proof to the *department* ~~division~~ of its financial ability to pay such compensation individually and on behalf of its subsidiary and affiliated companies with employees in this state and receiving an authorization from the *department* ~~division~~ to pay such compensation directly in accordance with the following provisions:

1. The *department* ~~division~~ may, as a condition to such authorization, require such employer to deposit in a depository designated by the *department* ~~division~~ either an indemnity bond or securities, at the option of the employer, of a kind and in an amount determined by the *department* ~~division~~ and subject to such conditions as the *department* ~~division~~ may prescribe, which shall include authorization to the *department* ~~division~~ in the case of default to sell any such securities sufficient to pay compensation awards or to bring suit upon such bonds, to procure prompt payment of compensation under this chapter. In addition, the *department* ~~division~~ shall require, as a condition to authorization to self-insure, proof that the employer has provided for competent personnel with whom to deliver benefits and to provide a safe working environment. Further, the *department* ~~division~~ shall require such employer to carry reinsurance at levels that will ensure the actuarial soundness of such employer in accordance with rules promulgated by the *department* ~~division~~. The *department* ~~division~~ may by rule require that, in the event of an individual self-insurer's insolvency, such indemnity bonds, securities, and reinsurance policies shall be payable to the Florida Self-Insurers Guaranty Association, Incorporated, created pursuant to s. 440.385. Any employer securing compensation in accordance with the provisions of this paragraph shall be known as a self-insurer and shall be classed as a carrier of her or his own insurance.

2. If the employer fails to maintain the foregoing requirements, the *department* ~~division~~ shall revoke the employer's authority to self-insure, unless the employer provides to the *department* ~~division~~ the certified opinion of an independent actuary who is a member of the American Society of Actuaries as to the actuarial present value of the employer's determined and estimated future compensation payments based on cash reserves, using a 4-percent discount rate, and a qualifying security deposit equal to 1.5 times the value so certified. The employer shall thereafter annually provide such a certified opinion until such time as the employer meets the requirements of subparagraph 1. The qualifying security deposit shall be adjusted at the time of each such annual report. Upon the failure of the employer to timely provide such opinion or to timely provide a security deposit in an amount equal to 1.5 times the value certified in the latest opinion, the *department* ~~division~~ shall then revoke such employer's authorization to self-insure, and such failure shall be deemed to constitute an immediate serious danger to the public health, safety, or welfare sufficient to justify the summary suspension of the employer's authorization to self-insure pursuant to s. 120.68.

3. Upon the suspension or revocation of the employer's authorization to self-insure, the employer shall provide to the *department* ~~division~~ and to the Florida Self-Insurers Guaranty Association, Incorporated, created pursuant to s. 440.385 the certified opinion of an independent actuary who is a member of the American Society of Actuaries of the actuarial present value of the determined and estimated future compensation payments of the employer for claims incurred while the member exercised the privilege of self-insurance, using a discount rate of 4 percent. The employer shall provide such an opinion at 6-month intervals thereafter until such time as the latest opinion shows no remaining value of claims. With each such opinion, the employer shall deposit with the *department* ~~division~~ a qualifying security deposit in an amount equal to the value certified by the actuary. The association has a cause of action against an employer, and against any successor of the employer, who fails to timely provide such opinion or who fails to timely maintain the required security deposit with the *department* ~~division~~. The association shall recover a judgment in the amount of the actuarial present value of the determined and estimated future compensation payments of the employer for claims incurred while the employer exercised the privilege of self-insurance, together with attorney's fees. For purposes of this section, the successor of an employer means any person, business entity, or group of persons or business entities, which holds or acquires legal or beneficial title to the majority of the assets or the majority of the shares of the employer.

4. A qualifying security deposit shall consist, at the option of the employer, of:

a. Surety bonds, in a form and containing such terms as prescribed by the *department* ~~division~~, issued by a corporation surety authorized to transact surety business by the Department of Insurance, and whose policyholders' and financial ratings, as reported in A.M. Best's Insurance Reports, Property-Liability, are not less than "A" and "V", respectively.

b. Certificates of deposit with financial institutions, the deposits of which are insured through the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

c. Irrevocable letters of credit in favor of the *department* ~~division~~ issued by financial institutions described in sub-subparagraph b.

d. Direct obligations of the United States Treasury backed by the full faith and credit of the United States.

e. Securities issued by this state and backed by the full faith and credit of this state.

5. The qualifying security deposit shall be held by the *department* ~~division~~, or by a depository authorized by the *department* ~~division~~, exclusively for the benefit of workers' compensation claimants. The security shall not be subject to assignment, execution, attachment, or any legal process whatsoever, except as necessary to guarantee the payment of compensation under this chapter. No surety bond may be terminated, and no other qualifying security may be allowed to lapse, without 90 days' prior notice to the *department* ~~division~~ and deposit by the self-insuring employer of other qualifying security of equal value within 10 business days after such notice. Failure to provide such notice or failure to timely provide qualifying replacement security after such notice shall constitute grounds for the *department* ~~division~~ to call or sue upon the surety bond, or to act with respect to other pledged security in any manner necessary to preserve its value for the purposes intended by this section, including the exercise of rights under a letter of credit, the sale of any security at then prevailing market rates, or the withdrawal of any funds represented by any certificate of deposit forming part of the qualifying security deposit. The *department* ~~division~~ may specify by rule the amount of the qualifying security deposit required prior to authorizing an employer to self-insure and the amount of net worth required for an employer to qualify for authorization to self-insure;

(c) By entering into a contract with a public utility under an approved utility-provided self-insurance program as set forth in s. 440.571 in effect as of July 1, 1983. The *department* ~~division~~ shall adopt rules to implement this paragraph;

(d) By entering into an interlocal agreement with other local governmental entities to create a local government pool pursuant to s. 624.4622;

(e) In accordance with s. 440.135, an employer, other than a local government unit, may elect coverage under the Workers' Compensation Law and retain the benefit of the exclusiveness of liability provided in s. 440.11 by obtaining a 24-hour health insurance policy from an authorized property and casualty insurance carrier or an authorized life and health insurance carrier, or by participating in a fully or partially self-insured 24-hour health plan that is established or maintained by or for two or more employers, so long as the law of this state is not preempted by the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, or any amendment to that law, which policy or plan must provide, for at least occupational injuries and illnesses, medical benefits that are comparable to those required by this chapter. A local government unit, as a single employer, in accordance with s. 440.135, may participate in the 24-hour health insurance coverage plan referenced in this paragraph. Disputes and remedies arising under policies issued under this section are governed by the terms and conditions of the policies and under the applicable provisions of the Florida Insurance Code and rules adopted under the insurance code and other applicable laws of this state. The 24-hour health insurance policy may provide for health care by a health maintenance organization or a preferred provider organization. The premium for such 24-hour health insurance policy shall be paid entirely by the employer. The 24-hour health insurance policy may use deductibles and coinsurance provisions that require the employee to pay a portion of the actual medical care received by the employee. If an employer obtains a 24-hour health insurance policy or self-insured plan to secure payment of compensation as to medical benefits, the employer must also obtain an insurance policy or policies that provide indemnity benefits as follows:

1. If indemnity benefits are provided only for occupational-related disability, such benefits must be comparable to those required by this chapter.

2. If indemnity benefits are provided for both occupational-related and nonoccupational-related disability, such benefits must be comparable to those required by this chapter, except that they must be based on 60 percent of the average weekly wages.

3. The employer shall provide for each of its employees life insurance with a death benefit of $100,000.

4. Policies providing coverage under this subsection must use prescribed and acceptable underwriting standards, forms, and policies approved by the Department of Insurance. If any insurance policy that provides coverage under this section is canceled, terminated, or nonrenewed for any reason, the cancellation, termination, or nonrenewal is ineffective until the self-insured employer or insurance carrier or carriers notify ~~the division and~~ the Department of Insurance of the cancellation, termination, or nonrenewal, and until the *department* ~~division~~ has actually received the notification. The *department* ~~division~~ must be notified of replacement coverage under a workers' compensation and employer's liability insurance policy or plan by the employer prior to the effective date of the cancellation, termination, or nonrenewal; or

(f) By entering into a contract with an individual self-insurer under an approved individual self-insurer-provided self-insurance program as set forth in s. 624.46225. The *department* ~~division~~ may adopt rules to implement this subsection.

(2)(a) The *department* ~~division~~ shall adopt rules by which businesses may become qualified to provide underwriting claims-adjusting, loss control, and safety engineering services to self-insurers.

(b) The *department* ~~division~~ shall adopt rules requiring self-insurers to file any reports necessary to fulfill the requirements of this chapter. Any self-insurer who fails to file any report as prescribed by the rules adopted by the *department* ~~division~~ shall be subject to a civil penalty not to exceed $100 for each such failure.

(3)(a) The license of any stock company or mutual company or association or exchange authorized to do insurance business in the state shall for good cause~~, upon recommendation of the division,~~ be suspended or revoked by the Department of Insurance. No suspension or revocation shall affect the liability of any carrier already incurred.

(b) The *department* ~~division~~ shall suspend or revoke any authorization to a self-insurer for good cause, as defined by rule of the *department* ~~division~~. No suspension or revocation shall affect the liability of any self-insurer already incurred.

(c) Violation of s. 440.381 by a self-insurance fund shall result in the imposition of a fine not to exceed $1,000 per audit if the self-insurance fund fails to act on said audits by correcting errors in employee classification or accepted applications for coverage where it knew employee classifications were incorrect. Such fines shall be levied by the *department* ~~division~~ and deposited into the Workers' Compensation Administration Trust Fund.

Section 37. Subsections (3) and (7) of section 440.381, Florida Statutes, are amended to read:

440.381 Application for coverage; reporting payroll; payroll audit procedures; penalties.—

(3) The department ~~of Insurance and the Department of Labor and Employment Security~~ shall establish by rule minimum requirements for audits of payroll and classifications in order to ensure that the appropriate premium is charged for workers' compensation coverage. The rules shall ensure that audits performed by both carriers and employers are adequate to provide that all sources of payments to employees, subcontractors, and independent contractors have been reviewed and that the accuracy of classification of employees has been verified. The rules shall provide that employers in all classes other than the construction class be audited not less frequently than biennially and may provide for more frequent audits of employers in specified classifications based on factors such as amount of premium, type of business, loss ratios, or other relevant factors. In no event shall employers in the construction class, generating more than the amount of premium required to be experience rated, be audited less than

annually. The annual audits required for construction classes shall consist of physical onsite audits. Payroll verification audit rules must include, but need not be limited to, the use of state and federal reports of employee income, payroll and other accounting records, certificates of insurance maintained by subcontractors, and duties of employees.

(7) If an employee suffering a compensable injury was not reported as earning wages on the last quarterly earnings report filed with the Division of Unemployment Compensation before the accident, the employer shall indemnify the carrier for all workers' compensation benefits paid to or on behalf of the employee unless the employer establishes that the employee was hired after the filing of the quarterly report, in which case the employer and employee shall attest to the fact that the employee was employed by the employer at the time of the injury. ~~It shall be the responsibility of the Division of Workers' Compensation to collect all necessary data so as to enable it to notify the carrier of the name of an injured worker who was not reported as earning wages on the last quarterly earnings report. The division is hereby authorized to release such records to the carrier which will enable the carrier to seek reimbursement as provided under this subsection.~~ Failure of the employer to indemnify the insurer within 21 days after demand by the insurer shall constitute grounds for the insurer to immediately cancel coverage. Any action for indemnification brought by the carrier shall be cognizable in the circuit court having jurisdiction where the employer or carrier resides or transacts business. The insurer shall be entitled to a reasonable attorney's fee if it recovers any portion of the benefits paid in such action.

Section 38. Section 440.385, Florida Statutes, is amended to read:

440.385 Florida Self-Insurers Guaranty Association, Incorporated.—

(1) CREATION OF ASSOCIATION.—

(a) There is created a nonprofit corporation to be known as the "Florida Self-Insurers Guaranty Association, Incorporated," hereinafter referred to as "the association." Upon incorporation of the association, all individual self-insurers as defined in ss. 440.02(23)(a) and 440.38(1)(b), other than individual self-insurers which are public utilities or governmental entities, shall be members of the association as a condition of their authority to individually self-insure in this state. The *association* ~~corporation~~ shall perform its functions under a plan of operation as established and approved under subsection (5) and shall exercise its powers and duties through a board of directors as established under subsection (2). The *association* ~~corporation~~ shall have those powers granted or permitted *associations* ~~corporations~~ not for profit, as provided in chapter 617. *The activities of the association shall be subject to review by the Department of Insurance. The Department of Insurance shall have oversight responsibility as set forth in this act. The association is specifically authorized to enter into agreements with the State of Florida to perform specified services.*

(b) A member may voluntarily withdraw from the association when the member voluntarily terminates the self-insurance privilege and pays all assessments due to the date of such termination. However, the withdrawing member shall continue to be bound by the provisions of this section relating to the period of his or her membership and any claims charged pursuant thereto. The withdrawing member who is a member on or after January 1, 1991, shall also be required to provide to the *association* ~~division~~ upon withdrawal, and at 12-month intervals thereafter, satisfactory proof*, including, if requested by the association, a report of known and potential claims certified by a member of the American Academy of Actuaries,* that it continues to meet the standards of s. 440.38(1)(b)1. in relation to claims incurred while the withdrawing member exercised the privilege of self-insurance. Such reporting shall continue until the withdrawing member *demonstrates to* ~~satisfies~~ the *association* ~~division~~ that there is no remaining value to claims incurred while the withdrawing member was self-insured. *If a withdrawing member fails or refuses to timely provide an actuarial report to the association, the association may obtain an order from a circuit court requiring the member to produce such a report and ordering such other relief as the court determines appropriate. The association shall be entitled to recover all reasonable costs and attorney's fees expended in such proceedings.* If during this reporting period the withdrawing member fails to meet the standards of s. 440.38(1)(b)1., the withdrawing member who is a member on or after January 1, 1991, shall thereupon, and at 6-month intervals thereafter, provide to the ~~division and the~~ association the certified opinion of an independent actuary who is a member of the American *Academy* ~~Society~~ of Actuaries of the actuarial present value of the determined and estimated future compensation payments of the member for claims incurred while the member was a self-insurer, using a discount rate of 4 percent. With each such opinion, the withdrawing member shall deposit with the *association* ~~division~~ security in an amount equal to the value certified by the actuary and of a type that is acceptable for qualifying security deposits under s. 440.38(1)(b). The withdrawing member shall continue to provide such opinions and to provide such security until such time as the latest opinion shows no remaining value of claims. The association has a cause of action against a withdrawing member, and against any successor of a withdrawing member, who fails to timely provide the required opinion or who fails to maintain the required deposit with the division. The association shall be entitled to recover a judgment in the amount of the actuarial present value of the determined and estimated future compensation payments of the withdrawing member for claims incurred during the time that the withdrawing member exercised the privilege of self-insurance, together with reasonable attorney's fees. *The association is also entitled to recover reasonable attorney's fees in any action to compel production of any actuarial report required by this statute.* For purposes of this section, the successor of a withdrawing member means any person, business entity, or group of persons or business entities, which holds or acquires legal or beneficial title to the majority of the assets or the majority of the shares of the withdrawing member.

(2) BOARD OF DIRECTORS.—The board of directors of the association shall consist of nine persons and shall be organized as established in the plan of operation. *All board members shall be experienced in self-insurance in this state.* ~~With respect to initial appointments, the Secretary of Labor and Employment Security shall, by July 15, 1982, approve and appoint to the board persons who are experienced with self-insurance in this state and who are recommended by the individual self-insurers in this state required to become members of the association pursuant to the provisions of paragraph (1)(a). In the event the secretary finds that any person so recommended does not have the necessary qualifications for service on the board and a majority of the board has been appointed, the secretary shall request the directors thus far approved and appointed to recommend another person for appointment to the board.~~ Each director shall serve for a 4-year term and may be reappointed. Appointments *after March 21, 2001,* ~~other than initial appointments~~ shall be made by the *Insurance Commissioner* ~~Secretary of Labor and Employment Security~~ upon recommendation of members of the association. Any vacancy on the board shall be filled for the remaining period of the term in the same manner as appointments other than initial appointments are made. Each director shall be reimbursed for expenses incurred in carrying out the duties of the board on behalf of the association.

(3) POWERS AND DUTIES.—

(a) Upon creation of the Insolvency Fund pursuant to the provisions of subsection (4), the association is obligated for payment of compensation under this chapter to insolvent members' employees resulting from incidents and injuries existing prior to the member becoming an insolvent member and from incidents and injuries occurring within 30 days after the member has become an insolvent member, provided the incidents giving rise to claims for compensation under this chapter occur during the year in which such insolvent member is a member of the guaranty fund and was assessable pursuant to the plan of operation, and provided the employee makes timely claim for such payments according to procedures set forth by a court of competent jurisdiction over the delinquency or bankruptcy proceedings of the insolvent member. Such obligation includes only that amount due the injured worker or workers of the insolvent member under this chapter. In no event is the association obligated to a claimant in an amount in excess of the obligation of the insolvent member. The association shall be deemed the insolvent employer for purposes of this chapter to the extent of its obligation on the covered claims and, to such

extent, shall have all rights, duties, and obligations of the insolvent employer as if the employer had not become insolvent. However, in no event shall the association be liable for any penalties or interest.

(b) The association may:

1. Employ or retain such persons as are necessary to handle claims and perform other duties of the association.

2. Borrow funds necessary to effect the purposes of this section in accord with the plan of operation.

3. Sue or be sued.

4. Negotiate and become a party to such contracts as are necessary to carry out the purposes of this section.

5. Purchase such reinsurance as is determined necessary pursuant to the plan of operation.

6. Review all applicants for membership in the association *to determine whether the applicant is qualified for membership under the law. The association shall recommend to the Department of Insurance that the application be accepted or rejected based on the criteria set forth in s. 440.38(1)(b). The department shall approve or disapprove the application*. ~~Prior to a final determination by the Division of Workers' Compensation as to whether or not to approve any applicant for membership in the association, the association may issue opinions to the division concerning any applicant, which opinions shall be considered by the division prior to any final determination.~~

7. Collect and review financial information from employers and make recommendations to the Department of Insurance regarding the appropriate security deposit and reinsurance amounts necessary for an employer to demonstrate that it has the financial strength necessary to assure the timely payment of all current and future claims. The association may audit and examine an employer to verify the financial strength of its current and former members. If the association determines that a current or former self-insured employer does not have the financial strength necessary to assure the timely payment of all current and estimated future claims, the association may recommend to the department that the department:

a. Revoke the employer's self-insurance privilege.

b. Require the employer to provide a certified opinion of an independent actuary who is a member of the American Academy of Actuaries as to the actuarial present value of the employer's estimated current and future compensation payments, using a 4-percent discount rate.

c. Require an increase in the employer's security deposit in an amount determined by the association to be necessary to assure payment of compensation claims. The department shall act on such recommendations. The association has a cause of action against an employer, and against any successor of an employer, who fails to provide an additional security deposit required by the department. The association shall recover a judgment in the amount of the requested additional security deposit together with reasonable attorney's fees. For the purposes of this section, the successor of an employer is any person, business entity, or group of persons or business entities that holds or acquires legal or beneficial title to the majority of the assets or the majority of the shares of the employer.

8. ~~7.~~ Charge fees to any member of the association to cover the actual costs of examining the financial and safety conditions of that member.

9. ~~8.~~ Charge an applicant for membership in the association a fee sufficient to cover the actual costs of examining the financial condition of the applicant.

10. Implement any and all procedures necessary to ensure compliance with regulatory actions taken by the department.

(c)1. To the extent necessary to secure funds for the payment of covered claims and also to pay the reasonable costs to administer them, the *association, subject to approval by the* Department of *Insurance* ~~Labor and Employment Security, upon certification of the board of directors~~, shall levy assessments based on the annual *written* ~~normal~~ premium each employer would have paid had the employer not been self-insured. Every assessment shall be made as a uniform percentage of the figure applicable to all individual self-insurers, provided that the assessment levied against any self-insurer in any one year shall not exceed 1 percent of the annual *written* ~~normal~~ premium during the calendar year preceding the date of the assessment. Assessments shall be remitted to and administered by the board of directors in the manner specified by the approved plan. Each employer so assessed shall have at least 30 days' written notice as to the date the assessment is due and payable. The association shall levy assessments against any newly admitted member of the association so that the basis of contribution of any newly admitted member is the same as previously admitted members, provision for which shall be contained in the plan of operation.

2. If, in any one year, funds available from such assessments, together with funds previously raised, are not sufficient to make all the payments or reimbursements then owing, the funds available shall be prorated, and the unpaid portion shall be paid as soon thereafter as sufficient additional funds become available.

3. *Funds may be allocated or paid from the Workers' Compensation Administration Trust Fund to contract with the association to perform services required by law. However,* no state funds of any kind shall be allocated or paid to the association or any of its accounts *for payment of covered claims or related expenses* except those state funds accruing to the association by and through the assignment of rights of an insolvent employer. *The department shall not levy any assessment on the Florida Self-Insurance Guaranty Association.*

(4) INSOLVENCY FUND.—Upon the adoption of a plan of operation ~~or the adoption of rules by the Department of Labor and Employment Security pursuant to subsection (5)~~, there shall be created an Insolvency Fund to be managed by the association.

(a) The Insolvency Fund is created for purposes of meeting the obligations of insolvent members incurred while members of the association and after the exhaustion of any *security deposit* ~~bond~~, as required under this chapter. However, if such *security deposit* ~~bond, surety,~~ or reinsurance policy is payable to the Florida Self-Insurers Guaranty Association, the association shall commence to provide benefits out of the Insolvency Fund and be reimbursed from the *security deposit* ~~bond, surety,~~ or reinsurance policy. The method of operation of the Insolvency Fund shall be defined in the plan of operation as provided in subsection (5).

(b) The department shall have the authority to audit the financial soundness of the Insolvency Fund annually.

(c) The department may offer certain amendments to the plan of operation to the board of directors of the association for purposes of assuring the ongoing financial soundness of the Insolvency Fund and its ability to meet the obligations of this section.

~~(d) The department actuary may make certain recommendations to improve the orderly payment of claims.~~

(5) PLAN OF OPERATION.—*The association shall operate pursuant to a plan of operation approved by the board of directors. The plan of operation in effect on March 1, 2001, and approved by the Department of Labor and Employment Security shall remain in effect. However, any amendments to the plan shall not become effective until approved by the Department of Insurance.* ~~By September 15, 1982, the board of directors shall submit to the Department of Labor and Employment Security a proposed plan of operation for the administration of the association and the Insolvency Fund.~~

(a) The purpose of the plan of operation shall be to provide the association and the board of directors with the authority and responsibility to establish the necessary programs and to take the necessary actions to protect against the insolvency of a member of the association. In addition, the plan shall provide that the members of the association shall be responsible for maintaining an adequate Insolvency Fund to meet the obligations of insolvent members provided for under

this act and shall authorize the board of directors to contract and employ those persons with the necessary expertise to carry out this stated purpose. *By January 1, 2002, the board of directors shall submit to the Department of Insurance a proposed plan of operation for the administration of the association. The Department of Insurance shall approve the plan by order, consistent with this act. The Department of Insurance shall approve any amendments to the plan, by order consistent with this act, and determined appropriate to carry out the duties and responsibilities of the association.*

~~(b) The plan of operation, and any amendments thereto, shall take effect upon approval in writing by the department. If the board of directors fails to submit a plan by September 15, 1982, or fails to make required amendments to the plan within 30 days thereafter, the department shall promulgate such rules as are necessary to effectuate the provisions of this subsection. Such rules shall continue in force until modified by the department or superseded by a plan submitted by the board of directors and approved by the department.~~

(b)~~(c)~~ All member employers shall comply with the plan of operation.

(c)~~(d)~~ The plan of operation shall:

1. Establish the procedures whereby all the powers and duties of the association under subsection (3) will be performed.

2. Establish procedures for handling assets of the association.

3. Establish the amount and method of reimbursing members of the board of directors under subsection (2).

4. Establish procedures by which claims may be filed with the association and establish acceptable forms of proof of covered claims. Notice of claims to the receiver or liquidator of the insolvent employer shall be deemed notice to the association or its agent, and a list of such claims shall be submitted periodically to the association or similar organization in another state by the receiver or liquidator.

5. Establish regular places and times for meetings of the board of directors.

6. Establish procedures for records to be kept of all financial transactions of the association and its agents and the board of directors.

7. Provide that any member employer aggrieved by any final action or decision of the association may appeal to the department within 30 days after the action or decision.

8. Establish the procedures whereby recommendations of candidates for the board of directors shall be submitted to the department.

9. Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(d)~~(e)~~ The plan of operation may provide that any or all of the powers and duties of the association, except those specified under subparagraphs *(c)*~~(d)~~1. and 2., be delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association or its equivalent in two or more states. Such a corporation, association, or organization shall be reimbursed as a servicing facility would be reimbursed and shall be paid for its performance of any other functions of the association. A delegation of powers or duties under this subsection shall take effect only with the approval of both the board of directors and the department and may be made only to a corporation, association, or organization which extends protection which is not substantially less favorable and effective than the protection provided by this section.

(6) POWERS AND DUTIES OF DEPARTMENT OF *INSURANCE* ~~LABOR AND EMPLOYMENT SECURITY~~.—

(a) The department shall:

~~1.~~ *review recommendations of the association concerning whether current or former self-insured employers or members of the association have the financial strength necessary to ensure the timely payment of all current and estimated future claims. If the association determines an employer does not have the financial strength necessary to ensure the timely payment of all current and future claims and recommends action pursuant to paragraph (3)(b), the Department of Insurance may take such action as necessary to order the employer to comply with the recommendation.* ~~Notify the association of the existence of an insolvent employer not later than 3 days after it receives notice of the determination of insolvency.~~

(b) The department may:

1. Contract with the association for services, which may include, but not be limited to, the following:

a. Process applications for self-insurance.

b. Collect and review financial statements and loss reserve information from individual self-insurers.

c. Collect and maintain files for original security deposit documents and reinsurance policies from individual self-insurers and, if necessary, perfect security interests in security deposits.

d. Process compliance documentation for individual self-insurers and provide same to the Department of Insurance.

e. Collect all data necessary to calculate annual premium for all individual self-insurers, including individual self-insurers that are public utilities or governmental entities, and provide such calculated annual premium to the Department of Insurance for assessment purposes.

f. Inspect and audit annually, if necessary, the payroll and other records of each individual self-insurer, including individual self-insurers that are public utilities or governmental entities, in order to determine the wages paid by each individual self-insurer, the premium such individual self-insurer would have to pay if insured, and all payments of compensation made by such individual self-insurer during each prior period with the results of such audit provided to the Department of Insurance. For the purposes of this section, the payroll records of each individual self-insurer shall be open to inspection and audit by the association, the department, or their authorized representative, during regular business hours.

g. Provide legal representation to implement the administration and audit of individual self-insurers and make recommendations regarding prosecution of any administrative or legal proceedings necessitated by the department's regulation of the individual self-insurers.

2. Contract with an attorney or attorneys recommended by the association for representation of the department in any administrative or legal proceedings necessitated by the recommended regulation of the individual self-insurers. ~~Upon request of the board of directors, provide the association with a statement of the annual normal premiums of each member employer.~~

~~(b) The department may:~~

3.~~1.~~ *Direct the association to require from each individual self-insurer, at such time and in accordance with such regulations as the department prescribes, reports in respect to wages paid, the amount of premiums such individual self-insurer would have to pay if insured, and all payments of compensation made by such individual self-insurer during each prior period and determine the amounts paid by each individual self-insurer and the amounts paid by all individual self-insurers during such period. For the purposes of this section, the payroll records of each individual self-insurer shall be open to annual inspection and audit by the association, the department, or their authorized representative, during regular business hours, and if any audit of such records of an individual self-insurer discloses a deficiency in the amount reported to the association or in the amounts paid to the Department of Insurance by an individual self-insurer for its assessment for the Workers' Compensation Administration Trust Fund, the Department of Insurance or the association may assess the cost of such audit against the individual self-insurer.*

4. Require that the association notify the member employers and any other interested parties of the determination of insolvency and of

their rights under this section. Such notification shall be by mail at the last known address thereof when available; but, if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient.

5.~~2.~~ Suspend or revoke the authority of any member employer failing to pay an assessment when due or failing to comply with the plan of operation to self-insure in this state. As an alternative, the department may levy a fine on any member employer failing to pay an assessment when due. Such fine shall not exceed 5 percent of the unpaid assessment per month, except that no fine shall be less than $100 per month.

~~3. Revoke the designation of any servicing facility if the department finds that claims are being handled unsatisfactorily.~~

(7) EFFECT OF PAID CLAIMS.—

(a) Any person who recovers from the association under this section shall be deemed to have assigned his or her rights to the association to the extent of such recovery. Every claimant seeking the protection of this section shall cooperate with the association to the same extent as such person would have been required to cooperate with the insolvent member. The association shall have no cause of action against the employee of the insolvent member for any sums the association has paid out, except such causes of action as the insolvent member would have had if such sums had been paid by the insolvent member. In the case of an insolvent member operating on a plan with assessment liability, payments of claims by the association shall not operate to reduce the liability of the insolvent member to the receiver, liquidator, or statutory successor for unpaid assessments.

(b) The receiver, liquidator, or statutory successor of an insolvent member shall be bound by settlements of covered claims by the association or a similar organization in another state. The court having jurisdiction shall grant such claims priority against the assets of the insolvent member equal to that to which the claimant would have been entitled in the absence of this section. The expense of the association or similar organization in handling claims shall be accorded the same priority as the expenses of the liquidator.

(c) The association shall file periodically with the receiver or liquidator of the insolvent member statements of the covered claims paid by the association and estimates of anticipated claims on the association, which shall preserve the rights of the association against the assets of the insolvent member.

(8) *NOTIFICATION* ~~PREVENTION~~ OF INSOLVENCIES.—To aid in the detection and prevention of employer insolvencies~~:~~

~~(a)~~ upon determination by majority vote that any member employer may be insolvent or in a financial condition hazardous to the employees thereof or to the public, it shall be the duty of the board of directors to notify the Department of *Insurance* ~~Labor and Employment Security~~ of any information indicating such condition.

~~(b) The board of directors may, upon majority vote, request that the department determine the condition of any member employer which the board in good faith believes may no longer be qualified to be a member of the association. Within 30 days of the receipt of such request or, for good cause shown, within a reasonable time thereafter, the department shall make such determination and shall forthwith advise the board of its findings. Each request for a determination shall be kept on file by the department, but the request shall not be open to public inspection prior to the release of the determination to the public.~~

~~(c) It shall also be the duty of the department to report to the board of directors when it has reasonable cause to believe that a member employer may be in such a financial condition as to be no longer qualified to be a member of the association.~~

~~(d) The board of directors may, upon majority vote, make reports and recommendations to the department upon any matter which is germane to the solvency, liquidation, rehabilitation, or conservation of any member employer. Such reports and recommendations shall not be considered public documents.~~

~~(e) The board of directors may, upon majority vote, make recommendations to the department for the detection and prevention of employer insolvencies.~~

~~(f) The board of directors shall, at the conclusion of any member's insolvency in which the association was obligated to pay covered claims, prepare a report on the history and cause of such insolvency, based on the information available to the association, and shall submit such report to the department.~~

(9) EXAMINATION OF THE ASSOCIATION.—The association shall be subject to examination and regulation by the Department of *Insurance* ~~Labor and Employment Security~~. No later than March 30 of each year, the board of directors shall submit *an audited* ~~a~~ financial *statement* ~~report~~ for the preceding calendar year in a form approved by the department.

(10) IMMUNITY.—There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member employer, the association or its agents or employees, the board of directors, or the Department of *Insurance* ~~Labor and Employment Security~~ or its representatives for any action taken by them in the performance of their powers and duties under this section.

(11) STAY OF PROCEEDINGS; REOPENING OF DEFAULT JUDGMENTS.—All proceedings in which an insolvent employer is a party, or is obligated to defend a party, in any court or before any quasi-judicial body or administrative board in this state shall be stayed for up to 6 months, or for such additional period from the date the employer becomes an insolvent member, as is deemed necessary by a court of competent jurisdiction to permit proper defense by the association of all pending causes of action as to any covered claims arising from a judgment under any decision, verdict, or finding based on the default of the insolvent member. The association, either on its own behalf or on behalf of the insolvent member, may apply to have such judgment, order, decision, verdict, or finding set aside by the same court or administrator that made such judgment, order, decision, verdict, or finding and shall be permitted to defend against such claim on the merits. If requested by the association, the stay of proceedings may be shortened or waived.

(12) LIMITATION ON CERTAIN ACTIONS.—Notwithstanding any other provision of this chapter, a covered claim, as defined herein, with respect to which settlement is not effected and pursuant to which suit is not instituted against the insured of an insolvent member or the association within 1 year after the deadline for filing claims with the receiver of the insolvent member, or any extension of the deadline, shall thenceforth be barred as a claim against the association.

(13) CORPORATE INCOME TAX CREDIT.—Any sums acquired by a member by refund, dividend, or otherwise from the association shall be payable within 30 days of receipt to the Department of Insurance for deposit with the Treasurer to the credit of the General Revenue Fund. All provisions of chapter 220 relating to penalties and interest on delinquent corporate income tax payments apply to payments due under this subsection.

Section 39. Subsections (2), (3), and (4) of section 440.386, Florida Statutes, are amended to read:

440.386 Individual self-insurers' insolvency; conservation; liquidation.—

(2) COMMENCEMENT OF DELINQUENCY PROCEEDING.—The Department *of Insurance or the Florida Self-Insurers Guaranty Association, Incorporated,* may commence *a delinquency* ~~any such~~ proceeding by application to the court for an order directing the individual self-insurer to show cause why the department *or association* should not have the relief prayed for. ~~The Florida Self-Insurers Guaranty Association, Incorporated, may petition the department to commence such proceedings, and upon receipt of such petition, the department shall commence such proceeding.~~ On the return of such order to show cause, and after a full hearing, the court shall either deny the application or grant the application, together with such other relief as the nature of the case and the interests of the claimants, creditors,

stockholders, members, subscribers, or public may require. The *Department of Insurance and the association shall give* ~~Florida Self-Insurers Guaranty Association, Incorporated, shall be given~~ reasonable written notice *to each other* ~~by the department~~ of all hearings which pertain to an adjudication of insolvency of a member individual self-insurer.

(3) GROUNDS FOR LIQUIDATION.—The Department of Insurance *or the association* may apply to the court for an order appointing a receiver and directing the receiver to liquidate the business of a domestic individual self-insurer if such individual self-insurer is insolvent. ~~Florida Self-Insurers Guaranty Association, Incorporated, may petition the department to apply to the court for such order. Upon receipt of such petition, the department shall apply to the court for such order.~~

(4) GROUNDS FOR CONSERVATION; FOREIGN INDIVIDUAL SELF-INSURERS.—

(a) The Department *of Insurance or the association* may apply to the court for an order appointing a receiver or ancillary receiver, and directing the receiver to conserve the assets within this state, of a foreign individual self-insurer if such individual self-insurer is insolvent. ~~Florida Self-Insurers Guaranty Association, Incorporated, may petition the department to apply for such order, and, upon receipt of such petition, the department shall apply to the court for such order.~~

(b) An order to conserve the assets of an individual self-insurer shall require the receiver forthwith to take possession of the property of the receiver within the state and to conserve it, subject to the further direction of the court.

Section 40. Section 440.40, Florida Statutes, is amended to read:

440.40 Compensation notice.—Every employer who has secured compensation under the provisions of this chapter shall keep posted in a conspicuous place or places in and about her or his place or places of business typewritten or printed notices, in accordance with a form prescribed by the *department* ~~division~~, stating that such employer has secured the payment of compensation in accordance with the provisions of this chapter. Such notices shall contain the name and address of the carrier, if any, with whom the employer has secured payment of compensation and the date of the expiration of the policy. The *department* ~~division~~ may by rule prescribe the form of the notices and require carriers to provide the notices to policyholders.

Section 41. Section 440.41, Florida Statutes, is amended to read:

440.41 Substitution of carrier for employer.—In any case where the employer is not a self-insurer, in order that the liability for compensation imposed by this chapter may be most effectively discharged by the employer, and in order that the administration of this chapter in respect of such liability may be facilitated, the *department* ~~division~~ shall by regulation provide for the discharge, by the carrier for such employer, of such obligations and duties of the employer in respect of such liability, imposed by this chapter upon the employer, as it considers proper in order to effectuate the provisions of this chapter. For such purposes:

(1) Notice to or knowledge of an employer of the occurrence of the injury shall be notice to or knowledge of the carrier.

(2) Jurisdiction of the employer by the judges of compensation claims, the *department* ~~division~~, or any court under this chapter shall be jurisdiction of the carrier.

(3) Any requirement by the judges of compensation claims, the *department* ~~division~~, or any court under any compensation order, finding, or decision shall be binding upon the carrier in the same manner and to the same extent as upon the employer.

Section 42. Subsection (3) of section 440.42, Florida Statutes, is amended to read:

440.42 Insurance policies; liability.—

(3) No contract or policy of insurance issued by a carrier under this chapter shall expire or be canceled until at least 30 days have elapsed after a notice of cancellation has been sent to the *department* ~~division~~ and to the employer in accordance with the provisions of s. 440.185(7). However, when duplicate or dual coverage exists by reason of two different carriers having issued policies of insurance to the same employer securing the same liability, it shall be presumed that only that policy with the later effective date shall be in force and that the earlier policy terminated upon the effective date of the latter. In the event that both policies carry the same effective date, one of the policies may be canceled instanter upon filing a notice of cancellation with the *department* ~~division~~ and serving a copy thereof upon the employer in such manner as the *department* ~~division~~ prescribes by rule. The *department* ~~division~~ may by rule prescribe the content of the notice of retroactive cancellation and specify the time, place, and manner in which the notice of cancellation is to be served.

Section 43. Section 440.44, Florida Statutes, is amended to read:

440.44 Workers' compensation; staff organization.—

(1) INTERPRETATION OF LAW.—As a guide to the interpretation of this chapter, the Legislature takes due notice of federal social and labor acts and hereby creates an agency to administer such acts passed for the benefit of employees and employers in Florida industry, and desires to meet the requirements of such federal acts wherever not inconsistent with the Constitution and laws of Florida.

(2) INTENT.—It is the intent of the Legislature that the *department, the agency, and the Department of Education* ~~division~~ assume an active and forceful role in *their* ~~its~~ administration of this act, so as to ensure that the system operates efficiently and with maximum benefit to both employers and employees.

(3) EXPENDITURES.—The *department, the agency, the Department of Education,* ~~division~~ and the Chief Judge shall make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, for law books; for telephone services and WATS lines; for books of reference, periodicals, equipment, and supplies; and for printing and binding as may be necessary in the administration of this chapter. All expenditures in the administration of this chapter shall be allowed and paid as provided in s. 440.50 upon the presentation of itemized vouchers therefor approved by the *department, the agency, the Department of Education,* ~~division~~ or the Chief Judge.

(4) MERIT SYSTEM PRINCIPLE OF PERSONNEL ADMINISTRATION.—Subject to the other provisions of this chapter, the *department, the agency, and the Department of Education are* ~~division is~~ authorized to appoint, and prescribe the duties and powers of, bureau chiefs, attorneys, accountants, medical advisers, technical assistants, inspectors, claims examiners, and such other employees as may be necessary in the performance of its duties under this chapter.

(5) OFFICE.—The *department, the agency, the Department of Education,* ~~division~~ and the Chief Judge shall maintain and keep open during reasonable business hours an office, which shall be provided in the Capitol or some other suitable building in the City of Tallahassee, for the transaction of business under this chapter, at which office the official records and papers shall be kept. The office shall be furnished and equipped. The *department, the agency* ~~division~~, any judge of compensation claims, or the Chief Judge may hold sessions and conduct hearings at any place within the state.

(6) SEAL.—The division *and*~~,~~ the *Office of the Judges of Compensation Claims* ~~judges of compensation claims, and the Chief Judge~~ shall have *seals* ~~a seal~~ upon which shall be inscribed the words "State of Florida Department *of Insurance . . .Seal" and the "Division of Administrative Hearings. . . Seal." respectively.* ~~of Labor and Employment Security—Seal."~~

(7) DESTRUCTION OF OBSOLETE RECORDS.—The *department* ~~division~~ is expressly authorized to provide by regulation for and to destroy obsolete records of the *department* ~~division and commission~~.

(8) PROCEDURE.—In the exercise of *their* ~~its~~ duties and functions requiring administrative hearings, the *department and the agency* ~~division~~ shall proceed in accordance with the Administrative Procedure Act. The authority of the *department and the agency* ~~division~~ to issue orders resulting from administrative hearings as provided for in this chapter shall not infringe upon the jurisdiction of the judges of compensation claims.

Section 44. Section 440.4416, Florida Statutes, is hereby repealed.

Section 45. Subsection (1) of section 440.45, Florida Statutes, is amended to read:

440.45 Office of the Judges of Compensation Claims.—

(1) There is hereby created the Office of the Judges of Compensation Claims within the *Division of Administrative Hearing of the Department of Management Services* ~~Department of Labor and Employment Security~~. The Office of the Judges of Compensation Claims shall be headed by a Chief Judge. The Chief Judge shall be appointed by the Governor for a term of 4 years from a list of three names submitted by the statewide nominating commission created under subsection (2). The Chief Judge must possess the same qualifications for appointment as a judge of compensation claims, and the procedure for reappointment of the Chief Judge will be the same as for reappointment of a judge of compensation claims. The office shall be a separate budget entity and the Chief Judge shall be its agency head for all purposes. The *Division of Administrative Hearings* ~~Department of Labor and Employment Security~~ shall provide administrative support and service to the office to the extent requested by the Chief Judge but shall not direct, supervise, or control the Office of the Judges of Compensation Claims in any manner, including, but not limited to, personnel, purchasing, budgetary matters, or property transactions. The operating budget of the Office of the Judges of Compensation Claims shall be paid out of the Workers' Compensation Administration Trust Fund established in s. 440.50.

Section 46. Subsections (1), (2), (7), (8), (9), (10), and (11) of section 440.49, Florida Statutes, are amended to read:

440.49 Limitation of liability for subsequent injury through Special Disability Trust Fund.—

(1) LEGISLATIVE INTENT.—Whereas it is often difficult for workers with disabilities to achieve employment or to become reemployed following an injury, and it is the desire of the Legislature to facilitate the return of these workers to the workplace, it is the purpose of this section to encourage the employment, reemployment, and accommodation of the physically disabled by reducing an employer's insurance premium for reemploying an injured worker, to decrease litigation between carriers on apportionment issues, and to protect employers from excess liability for compensation and medical expense when an injury to a physically disabled worker merges with, aggravates, or accelerates her or his preexisting permanent physical impairment to cause either a greater disability or permanent impairment, or an increase in expenditures for temporary compensation or medical benefits than would have resulted from the injury alone. The *department* ~~division~~ or the administrator shall inform all employers of the existence and function of the fund and shall interpret eligibility requirements liberally. However, this subsection shall not be construed to create or provide any benefits for injured employees or their dependents not otherwise provided by this chapter. The entitlement of an injured employee or her or his dependents to compensation under this chapter shall be determined without regard to this subsection, the provisions of which shall be considered only in determining whether an employer or carrier who has paid compensation under this chapter is entitled to reimbursement from the Special Disability Trust Fund.

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

(a) "Permanent physical impairment" means and is limited to the conditions listed in paragraph (6)(a).

(b) "Preferred worker" means a worker who, because of a permanent impairment resulting from a compensable injury or occupational disease, is unable to return to the worker's regular employment.

(c) "Merger" describes or means that:

1. If the permanent physical impairment had not existed, the subsequent accident or occupational disease would not have occurred;

2. The permanent disability or permanent impairment resulting from the subsequent accident or occupational disease is materially and substantially greater than that which would have resulted had the permanent physical impairment not existed, and the employer has been required to pay, and has paid, permanent total disability or permanent impairment benefits for that materially and substantially greater disability;

3. The preexisting permanent physical impairment is aggravated or accelerated as a result of the subsequent injury or occupational disease, or the preexisting impairment has contributed, medically and circumstantially, to the need for temporary compensation, medical, or attendant care and the employer has been required to pay, and has paid, temporary compensation, medical, or attendant care benefits for the aggravated preexisting permanent impairment; or

4. Death would not have been accelerated if the permanent physical impairment had not existed.

(d) "Excess permanent compensation" means that compensation for permanent impairment, or permanent total disability or death benefits, for which the employer or carrier is otherwise entitled to reimbursement from the Special Disability Trust Fund.

(e) "Administrator" means the entity selected by the commission to review, allow, deny, compromise, controvert, and litigate claims of the Special Disability Trust Fund.

(f) "Corporation" means the Special Disability Trust Fund Financing Corporation, as created under subsection (14).

(g) "Commission" means the Special Disability Trust Fund Privatization Commission, as created under subsection (13).

In addition to the definitions contained in this subsection, the *department* ~~division~~ may by rule prescribe definitions that are necessary for the effective administration of this section.

(7) REIMBURSEMENT OF EMPLOYER.—

(a) The right to reimbursement as provided in this section is barred unless written notice of claim of the right to such reimbursement is filed by the employer or carrier entitled to such reimbursement with the *department* ~~division~~ or administrator at Tallahassee within 2 years after the date the employee last reached maximum medical improvement, or within 2 years after the date of the first payment of compensation for permanent total disability, wage loss, or death, whichever is later. The notice of claim must contain such information as the *department* ~~division~~ by rule requires or as established by the administrator; and the employer or carrier claiming reimbursement shall furnish such evidence in support of the claim as the *department* ~~division~~ or administrator reasonably may require.

(b) For notice of claims on the Special Disability Trust Fund filed on or after July 1, 1978, the Special Disability Trust Fund shall, within 120 days after receipt of notice that a carrier has paid, been required to pay, or accepted liability for excess compensation, serve notice of the acceptance of the claim for reimbursement.

(c) A proof of claim must be filed on each notice of claim on file as of June 30, 1997, within 1 year after July 1, 1997, or the right to reimbursement of the claim shall be barred. A notice of claim on file on or before June 30, 1997, may be withdrawn and refiled if, at the time refiled, the notice of claim remains within the limitation period specified in paragraph (a). Such refiling shall not toll, extend, or otherwise alter in any way the limitation period applicable to the withdrawn and subsequently refiled notice of claim. Each proof of claim filed shall be accompanied by a proof-of-claim fee as provided in paragraph (9)(d). The Special Disability Trust Fund shall, within 120 days after receipt of the proof of claim, serve notice of the acceptance of the claim for reimbursement. This paragraph shall apply to all claims notwithstanding the provisions of subsection (12).

(d) Each notice of claim filed or refiled on or after July 1, 1997, must be accompanied by a notification fee as provided in paragraph (9)(d). A proof of claim must be filed within 1 year after the date the notice of claim is filed or refiled, accompanied by a proof-of-claim fee as provided in paragraph (9)(d), or the claim shall be barred. The notification fee shall be waived if both the notice of claim and proof of claim are submitted together as a single filing. The Special Disability Trust Fund shall, within 180 days after receipt of the proof of claim, serve notice of the acceptance of the claim for reimbursement. This paragraph shall apply to all claims notwithstanding the provisions of subsection (12).

(e) For dates of accident on or after January 1, 1994, the Special Disability Trust Fund shall, within 120 days of receipt of notice that a carrier has been required to pay, and has paid over $10,000 in benefits, serve notice of the acceptance of the claim for reimbursement. Failure of the Special Disability Trust Fund to serve notice of acceptance shall give rise to the right to request a hearing on the claim for reimbursement. If the Special Disability Trust Fund through its representative denies or controverts the claim, the right to such reimbursement shall be barred unless an application for a hearing thereon is filed with the *department* ~~division~~ or administrator at Tallahassee within 60 days after notice to the employer or carrier of such denial or controversion. When such application for a hearing is timely filed, the claim shall be heard and determined in accordance with the procedure prescribed in s. 440.25, to the extent that such procedure is applicable, and in accordance with the workers' compensation rules of procedure. In such proceeding on a claim for reimbursement, the Special Disability Trust Fund shall be made the party respondent, and no findings of fact made with respect to the claim of the injured employee or the dependents for compensation, including any finding made or order entered pursuant to s. 440.20(11), shall be res judicata. The Special Disability Trust Fund may not be joined or made a party to any controversy or dispute between an employee and the dependents and the employer or between two or more employers or carriers without the written consent of the fund.

(f) When it has been determined that an employer or carrier is entitled to reimbursement in any amount, the employer or carrier shall be reimbursed annually from the Special Disability Trust Fund for the compensation and medical benefits paid by the employer or carrier for which the employer or carrier is entitled to reimbursement, upon filing request therefor and submitting evidence of such payment in accordance with rules prescribed by the *department* ~~division~~, which rules may include parameters for annual audits. The Special Disability Trust Fund shall pay the approved reimbursement requests on a first-in, first-out basis reflecting the order in which the reimbursement requests were received.

(g) The *department* ~~division~~ may by rule require specific forms and procedures for the administration and processing of claims made through the Special Disability Trust Fund.

(8) PREFERRED WORKER PROGRAM.—The *The Department of Education* ~~division~~ or administrator shall issue identity cards to preferred workers upon request by qualified employees and *the department* shall reimburse an employer, from the Special Disability Trust Fund, for the cost of workers' compensation premium related to the preferred workers payroll for up to 3 years of continuous employment upon satisfactory evidence of placement and issuance of payroll and classification records and upon the employee's certification of employment. The *department and the Department of Education* ~~division~~ may by rule prescribe definitions, forms, and procedures for the administration of the preferred worker program. The *Department of Education* ~~division~~ may by rule prescribe the schedule for submission of forms for participation in the program.

(9) SPECIAL DISABILITY TRUST FUND.—

(a) There is established in the State Treasury a special fund to be known as the "Special Disability Trust Fund," which shall be available only for the purposes stated in this section; and the assets thereof may not at any time be appropriated or diverted to any other use or purpose. The Treasurer shall be the custodian of such fund, and all moneys and securities in such fund shall be held in trust by such Treasurer and shall not be the money or property of the state. The Treasurer is authorized to disburse moneys from such fund only when approved by the *department* ~~division~~ or corporation and upon the order of the Comptroller. The Treasurer shall deposit any moneys paid into such fund into such depository banks as the *department* ~~division~~ or corporation may designate and is authorized to invest any portion of the fund which, in the opinion of the division, is not needed for current requirements, in the same manner and subject to all the provisions of the law with respect to the deposits of state funds by such Treasurer. All interest earned by such portion of the fund as may be invested by the Treasurer shall be collected by her or him and placed to the credit of such fund.

(b)1. The Special Disability Trust Fund shall be maintained by annual assessments upon the insurance companies writing compensation insurance in the state, the commercial self-insurers under ss. 624.462 and 624.4621, the assessable mutuals under s. 628.601, and the self-insurers under this chapter, which assessments shall become due and be paid quarterly at the same time and in addition to the assessments provided in s. 440.51. The *department* ~~division~~ shall estimate annually in advance the amount necessary for the administration of this subsection and the maintenance of this fund and shall make such assessment in the manner hereinafter provided.

2. The annual assessment shall be calculated to produce during the ensuing fiscal year an amount which, when combined with that part of the balance in the fund on June 30 of the current fiscal year which is in excess of $100,000, is equal to the average of:

a. The sum of disbursements from the fund during the immediate past 3 calendar years, and

b. Two times the disbursements of the most recent calendar year.

Such amount shall be prorated among the insurance companies writing compensation insurance in the state and the self-insurers. Provided however, for those carriers that have excluded ceded reinsurance premiums from their assessments on or before January 1, 2000, no assessments on ceded reinsurance premiums shall be paid by those carriers until such time as the Division *of Workers' Compensation of the Department of Labor and Employment Security or the department* advises each of those carriers of the impact that the inclusion of ceded reinsurance premiums has on their assessment. The *department* ~~division~~ may not recover any past underpayments of assessments levied against any carrier that on or before January 1, 2000, excluded ceded reinsurance premiums from their assessment prior to the point that the Division *of Workers' Compensation of the Department of Labor and Employment Security or the department* advises of the appropriate assessment that should have been paid.

3. The net premiums written by the companies for workers' compensation in this state and the net premium written applicable to the self-insurers in this state are the basis for computing the amount to be assessed as a percentage of net premiums. Such payments shall be made by each carrier and self-insurer to the *department* ~~division~~ for the Special Disability Trust Fund in accordance with such regulations as the *department* ~~division~~ prescribes.

4. The Treasurer is authorized to receive and credit to such Special Disability Trust Fund any sum or sums that may at any time be contributed to the state by the United States under any Act of Congress, or otherwise, to which the state may be or become entitled by reason of any payments made out of such fund.

(c) Notwithstanding the Special Disability Trust Fund assessment rate calculated pursuant to this section, the rate assessed shall not exceed 4.52 percent.

(d) The Special Disability Trust Fund shall be supplemented by a $250 notification fee on each notice of claim filed or refiled after July 1, 1997, and a $500 fee on each proof of claim filed in accordance with subsection (7). Revenues from the fee shall be deposited into the Special Disability Trust Fund and are exempt from the deduction required by s. 215.20. The fees provided in this paragraph shall not be imposed upon any insurer which is in receivership with the Department of Insurance.

(e) The Department of *Insurance* ~~Labor and Employment Security~~ or administrator shall report annually on the status of the Special Disability Trust Fund. The report shall update the estimated undiscounted and discounted fund liability, as determined by an independent actuary, change in the total number of notices of claim on file with the fund in addition to the number of newly filed notices of claim, change in the number of proofs of claim processed by the fund, the fee revenues refunded and revenues applied to pay down the liability of the fund, the average time required to reimburse accepted claims, and the average administrative costs per claim. The department or administrator shall submit its report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1 of each year.

(10) *DEPARTMENT* ~~DIVISION~~ ADMINISTRATION OF FUND; CLAIMS; ADVISORY COMMITTEE; EXPENSES.—The *department* ~~division~~ or administrator shall administer the Special Disability Trust Fund with authority to allow, deny, compromise, controvert, and litigate claims made against it and to designate an attorney to represent it in proceedings involving claims against the fund, including negotiation and consummation of settlements, hearings before judges of compensation claims, and judicial review. The *department* ~~division~~ or administrator or the attorney designated by it shall be given notice of all hearings and proceedings involving the rights or obligations of such fund and shall have authority to make expenditures for such medical examinations, expert witness fees, depositions, transcripts of testimony, and the like as may be necessary to the proper defense of any claim. The *department* ~~division~~ shall appoint an advisory committee composed of representatives of management, compensation insurance carriers, and self-insurers to aid it in formulating policies with respect to conservation of the fund, who shall serve without compensation for such terms as specified by it, but be reimbursed for travel expenses as provided in s. 112.061. All expenditures made in connection with conservation of the fund, including the salary of the attorney designated to represent it and necessary travel expenses, shall be allowed and paid from the Special Disability Trust Fund as provided in this section upon the presentation of itemized vouchers therefor approved by the *department* ~~division~~.

(11) EFFECTIVE DATES.—This section does not apply to any case in which the accident causing the subsequent injury or death or the disablement or death from a subsequent occupational disease occurred prior to July 1, 1955, or on or after January 1, 1998. In no event shall the Special Disability Trust Fund be liable for, or reimburse employers or carriers for, any case in which the accident causing the subsequent injury or death or the disablement or death from a subsequent occupational disease occurred on or after January 1, 1998. The Special Disability Trust Fund shall continue to reimburse employers or carriers for subsequent injuries occurring prior to January 1, 1998, and the *department* ~~division~~ shall continue to assess for and the *department* ~~division~~ or administrator shall fund reimbursements as provided in subsection (9) for this purpose.

Section 47. Section 440.491, Florida Statutes, is amended to read:

440.491 Reemployment of injured workers; rehabilitation.—

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

(a) "Carrier" means group self-insurance funds or individual self-insureds authorized under this chapter and commercial funds or insurance entities authorized to write workers' compensation insurance under chapter 624.

(b) "Medical care coordination" includes, but is not limited to, coordinating physical rehabilitation services such as medical, psychiatric, or therapeutic treatment for the injured employee, providing health training to the employee and family, and monitoring the employee's recovery. The purposes of medical care coordination are to minimize the disability and recovery period without jeopardizing medical stability, to assure that proper medical treatment and other restorative services are timely provided in a logical sequence, and to contain medical costs.

(c) "Qualified rehabilitation provider" means a rehabilitation nurse, rehabilitation counselor, vocational evaluator, rehabilitation facility, or agency approved by the *Department of Education* ~~division~~ as qualified to provide reemployment assessments, medical care coordination, reemployment services, or vocational evaluations under this chapter.

(d) "Reemployment assessment" means a written assessment performed by a qualified rehabilitation provider which provides a comprehensive review of the medical diagnosis, treatment, and prognosis; includes conferences with the employer, physician, and claimant; and recommends a cost-effective physical and vocational rehabilitation plan to assist the employee in returning to suitable gainful employment.

(e) "Reemployment services" means services that include, but are not limited to, vocational counseling, job-seeking skills training, ergonomic job analysis, transferable skills analysis, selective job placement, labor market surveys, and arranging other services such as education or training, vocational and on-the-job, which may be needed by the employee to secure suitable gainful employment.

(f) "Reemployment status review" means a review to determine whether an injured employee is at risk of not returning to work.

(g) "Suitable gainful employment" means employment or self-employment that is reasonably attainable in light of the employee's age, education, work history, transferable skills, previous occupation, and injury, and which offers an opportunity to restore the individual as soon as practicable and as nearly as possible to his or her average weekly earnings at the time of injury.

(h) "Vocational evaluation" means a review of the employee's physical and intellectual capabilities, his or her aptitudes and achievements, and his or her work-related behaviors to identify the most cost-effective means toward the employee's return to suitable gainful employment.

(2) INTENT.—It is the intent of this section to implement a systematic review by carriers of the factors that are predictive of longer-term disability and to encourage the provision of medical care coordination and reemployment services that are necessary to assist the employee in returning to work as soon as is medically feasible.

(3) REEMPLOYMENT STATUS REVIEWS AND REPORTS.—

(a) When an employee who has suffered an injury compensable under this chapter is unemployed 60 days after the date of injury and is receiving benefits for temporary total disability, temporary partial disability, or wage loss, and has not yet been provided medical care coordination and reemployment services voluntarily by the carrier, the carrier must determine whether the employee is likely to return to work and must report its determination to the *Department of Education* ~~division~~. The carrier must thereafter determine the reemployment status of the employee at 90-day intervals as long as the employee remains unemployed, is not receiving medical care coordination or reemployment services, and is receiving the benefits specified in this subsection.

(b) If medical care coordination or reemployment services are voluntarily undertaken within 60 days of the date of injury, such services may continue to be provided as agreed by the employee and the carrier.

(4) REEMPLOYMENT ASSESSMENTS.—

(a) The carrier may require the employee to receive a reemployment assessment as it considers appropriate. However, the carrier is encouraged to obtain a reemployment assessment if:

1. The carrier determines that the employee is at risk of remaining unemployed.

2. The case involves catastrophic or serious injury.

(b) The carrier shall authorize only a qualified rehabilitation provider to provide the reemployment assessment. The rehabilitation

provider shall conduct its assessment and issue a report to the carrier, the employee, and the *Department of Education* ~~division~~ within 30 days after the time such assessment is complete.

(c) If the rehabilitation provider recommends that the employee receive medical care coordination or reemployment services, the carrier shall advise the employee of the recommendation and determine whether the employee wishes to receive such services. The employee shall have 15 days after the date of receipt of the recommendation in which to agree to accept such services. If the employee elects to receive services, the carrier may refer the employee to a rehabilitation provider for such coordination or services within 15 days of receipt of the assessment report or notice of the employee's election, whichever is later.

(5) MEDICAL CARE COORDINATION AND REEMPLOYMENT SERVICES.—

(a) Once the carrier has assigned a case to a qualified rehabilitation provider for medical care coordination or reemployment services, the provider shall develop a reemployment plan and submit the plan to the carrier and the employee for approval.

(b) If the rehabilitation provider concludes that training and education are necessary to return the employee to suitable gainful employment, or if the employee has not returned to suitable gainful employment within 180 days after referral for reemployment services or receives $2,500 in reemployment services, whichever comes first, the carrier must discontinue reemployment services and refer the employee to the *Department of Education* ~~division~~ for a vocational evaluation. Notwithstanding any provision of chapter 289 or chapter 627, the cost of a reemployment assessment and the first $2,500 in reemployment services to an injured employee must not be treated as loss adjustment expense for workers' compensation ratemaking purposes.

(c) A carrier may voluntarily provide medical care coordination or reemployment services to the employee at intervals more frequent than those required in this section. For the purpose of monitoring reemployment, the carrier or the rehabilitation provider shall report to the *Department of Education* ~~division~~, in the manner prescribed by the *Department of Education* ~~division~~, the date of reemployment and wages of the employee. The carrier shall report its voluntary service activity to the *Department of Education* ~~division~~ as required by rule. Voluntary services offered by the carrier for any of the following injuries must be considered benefits for purposes of ratemaking: traumatic brain injury; spinal cord injury; amputation, including loss of an eye or eyes; burns of 5 percent or greater of the total body surface.

(d) If medical care coordination or reemployment services have not been undertaken as prescribed in paragraph (3)(b), a qualified rehabilitation service provider, facility, or agency that performs a reemployment assessment shall not provide medical care coordination or reemployment services for the employees it assesses.

(6) TRAINING AND EDUCATION.—

(a) Upon referral of an injured employee by the carrier, or upon the request of an injured employee, the *Department of Education* ~~division~~ shall conduct a training and education screening to determine whether it should refer the employee for a vocational evaluation and, if appropriate, approve training and education or other vocational services for the employee. The *Department of Education* ~~division~~ may not approve formal training and education programs unless it determines, after consideration of the reemployment assessment, pertinent reemployment status reviews or reports, and such other relevant factors as it prescribes by rule, that the reemployment plan is likely to result in return to suitable gainful employment. The *Department of Education* ~~division~~ is authorized to expend moneys from the Workers' Compensation Administration Trust Fund, established by s. 440.50, to secure appropriate training and education or other vocational services when necessary to satisfy the recommendation of a vocational evaluator. The *Department of Education* ~~division~~ shall establish training and education standards pertaining to employee eligibility, course curricula and duration, and associated costs.

(b) When it appears that an employee who has attained maximum medical improvement requires training and education to obtain suitable gainful employment, the employer shall pay the employee additional temporary total compensation while the employee receives such training and education for a period not to exceed 26 weeks, which period may be extended for an additional 26 weeks or less, if such extended period is determined to be necessary and proper by a judge of compensation claims. However, a carrier or employer is not precluded from voluntarily paying additional temporary total disability compensation beyond that period. If an employee requires temporary residence at or near a facility or an institution providing training and education which is located more than 50 miles away from the employee's customary residence, the reasonable cost of board, lodging, or travel must be borne by the *Department of Insurance* ~~division~~ from the Workers' Compensation Administration Trust Fund established by s. 440.50. An employee who refuses to accept training and education that is recommended by the vocational evaluator and considered necessary by the *Department of Education* ~~division~~ is subject to a 50-percent reduction in weekly compensation benefits, including wage-loss benefits, as determined under s. 440.15(3)(b).

(7) PROVIDER QUALIFICATIONS.—

(a) The *Department of Education* ~~division~~ shall investigate and maintain a directory of each qualified public and private rehabilitation provider, facility, and agency, and shall establish by rule the minimum qualifications, credentials, and requirements that each rehabilitation service provider, facility, and agency must satisfy to be eligible for listing in the directory. These minimum qualifications and credentials must be based on those generally accepted within the service specialty for which the provider, facility, or agency is approved.

(b) The *Department of Education* ~~division~~ shall impose a biennial application fee of $25 for each listing in the directory, and all such fees must be deposited in the Workers' Compensation Administration Trust Fund.

(c) The *Department of Education* ~~division~~ shall monitor and evaluate each rehabilitation service provider, facility, and agency qualified under this subsection to ensure its compliance with the minimum qualifications and credentials established by the *Department of Education* ~~division~~. The failure of a qualified rehabilitation service provider, facility, or agency to provide the *Department of Education* ~~division~~ with information requested or access necessary for the *Department of Education* ~~division~~ to satisfy its responsibilities under this subsection is grounds for disqualifying the provider, facility, or agency from further referrals.

(d) A qualified rehabilitation service provider, facility, or agency may not be authorized by an employer, a carrier, or the *Department of Education* ~~division~~ to provide any services, including expert testimony, under this section in this state unless the provider, facility, or agency is listed or has been approved for listing in the directory. This restriction does not apply to services provided outside this state under this section.

(e) The *Department of Education* ~~division~~, after consultation with representatives of employees, employers, carriers, rehabilitation providers, and qualified training and education providers, shall adopt rules governing professional practices and standards.

(8) CARRIER PRACTICES.—The *department* ~~division~~ shall monitor the selection of providers and the provision of services by carriers under this section for consistency with legislative intent set forth in subsection (2).

(9) PERMANENT DISABILITY.—The judge of compensation claims may not adjudicate an injured employee as permanently and totally disabled until or unless the carrier is given the opportunity to provide a reemployment assessment.

Section 48. Section 440.50, Florida Statutes, is amended to read:

440.50 Workers' Compensation Administration Trust Fund.—

(1)(a) There is established in the State Treasury a special fund to be known as the "Workers' Compensation Administration Trust Fund" for

the purpose of providing for the payment of all expenses in respect to the administration of this chapter, including the vocational rehabilitation of injured employees as provided in s. 440.49 and the payments due under s. 440.15(1)(f), the funding of the fixed administrative expenses of the plan, and the funding of the Bureau of Workers' Compensation Fraud within the Department of Insurance. Such fund shall be administered by the *department* ~~division~~.

(b) The *department* ~~division~~ is authorized to transfer as a loan an amount not in excess of $250,000 from such special fund to the Special Disability Trust Fund established by s. 440.49(9), which amount shall be repaid to said special fund in annual payments equal to not less than 10 percent of moneys received for such Special Disability Trust Fund.

(2) The Treasurer is authorized to disburse moneys from such fund only when approved by the *department* ~~division~~ and upon the order of the Comptroller.

(3) The Treasurer shall deposit any moneys paid into such fund into such depository banks as the *department* ~~division~~ may designate and is authorized to invest any portion of the fund which, in the opinion of the *department* ~~division~~, is not needed for current requirements, in the same manner and subject to all the provisions of the law with respect to the deposit of state funds by such Treasurer. All interest earned by such portion of the fund as may be invested by the Treasurer shall be collected by him or her and placed to the credit of such fund.

(4) All civil penalties provided in this chapter, if not voluntarily paid, may be collected by civil suit brought by the *department* ~~division~~ and shall be paid into such fund.

Section 49. Section 440.51, Florida Statutes, is amended to read:

440.51 Expenses of administration.—

(1) The *department* ~~division~~ shall estimate annually in advance the amounts necessary for the administration of this chapter, in the following manner.

(a) The *department* ~~division~~ shall, by July 1 of each year, notify carriers and self-insurers of the assessment rate, which shall be based on the anticipated expenses of the administration of this chapter for the next calendar year. Such assessment rate shall take effect January 1 of the next calendar year and shall be included in workers' compensation rate filings approved by the Department of Insurance which become effective on or after January 1 of the next calendar year. Assessments shall become due and be paid quarterly.

(b) The total expenses of administration shall be prorated among the carriers writing compensation insurance in the state and self-insurers. The net premiums collected by carriers and the amount of premiums calculated by the *department* ~~division~~ for self-insured employers are the basis for computing the amount to be assessed. When reporting deductible policy premium for purposes of computing assessments levied after July 1, 2001, full policy premium value must be reported prior to application of deductible discounts or credits. This amount may be assessed as a specific amount or as a percentage of net premiums payable as the *department* ~~division~~ may direct, provided such amount so assessed shall not exceed 2.75 percent, beginning January 1, 2001, except during the interim period from July 1, 2000, through December 31, 2000, such assessments shall not exceed 4 percent of such net premiums. The carriers may elect to make the payments required under s. 440.15(1)(f) rather than having these payments made by the *department* ~~division~~. In that event, such payments will be credited to the carriers, and the amount due by the carrier under this section will be reduced accordingly.

(2) The *department* ~~division~~ shall provide by regulation for the collection of the amounts assessed against each carrier. Such amounts shall be paid within 30 days from the date that notice is served upon such carrier. If such amounts are not paid within such period, there may be assessed for each 30 days the amount so assessed remains unpaid, a civil penalty equal to 10 percent of the amount so unpaid, which shall be collected at the same time and a part of the amount assessed. For those carriers who excluded ceded reinsurance premiums from their assessments prior to January 1, 2000, the *department* ~~division~~ shall not recover any past underpayments of assessments related to ceded reinsurance premiums prior to January 1, 2001, against such carriers.

(3) If any carrier fails to pay the amounts assessed against him or her under the provisions of this section within 60 days from the time such notice is served upon him or her, the Department of Insurance ~~upon being advised by the division~~ may suspend or revoke the authorization to insure compensation in accordance with the procedure in s. 440.38(3)(a). The *department* ~~division~~ may permit a carrier to remit any underpayment of assessments for assessments levied after January 1, 2001.

(4) All amounts collected under the provisions of this section shall be paid into the fund established in s. 440.50.

(5) Any amount so assessed against and paid by an insurance carrier, self-insurer authorized pursuant to s. 624.4621, or commercial self-insurance fund authorized under ss. 624.460-624.488 shall be allowed as a deduction against the amount of any other tax levied by the state upon the premiums, assessments, or deposits for workers' compensation insurance on contracts or policies of said insurance carrier, self-insurer, or commercial self-insurance fund. Any insurance carrier claiming such a deduction against the amount of any such tax shall not be required to pay any additional retaliatory tax levied pursuant to s. 624.5091 as a result of claiming such deduction. Because deductions under this subsection are available to insurance carriers, s. 624.5091 does not limit such deductions in any manner.

(6)(a) The *department* ~~division~~ may require from each carrier, at such time and in accordance with such regulations as the *department* ~~division~~ may prescribe, reports in respect to all gross earned premiums and of all payments of compensation made by such carrier during each prior period, and may determine the amounts paid by each carrier and the amounts paid by all carriers during such period.

(b) The Department of Insurance may require from each self-insurer, at such time and in accordance with such regulations as the Department of Insurance prescribes, reports in respect to wages paid, the amount of premiums such self-insurer would have to pay if insured, and all payments of compensation made by such self-insurer during each prior period, and may determine the amounts paid by each self-insurer and the amounts paid by all self-insurers during such period. For the purposes of this section, the payroll records of each self-insurer shall be open to annual inspection and audit by the Department of Insurance or its authorized representative, during regular business hours; and if any audit of such records of a self-insurer discloses a deficiency in the amounts reported to the Department of Insurance or in the amounts paid to the Department of Insurance by a self-insurer pursuant to this section, the Department of Insurance may assess the cost of such audit against the self-insurer.

(7) The *department* ~~division~~ shall keep accumulated cost records of all injuries occurring within the state coming within the purview of this chapter on a policy and calendar-year basis. For the purpose of this chapter, a "calendar year" is defined as the year in which the injury is reported to the *department* ~~division~~; "policy year" is defined as that calendar year in which the policy becomes effective, and the losses under such policy shall be chargeable against the policy year so defined.

(8) The *department* ~~division~~ shall assign an account number to each employer under this chapter and an account number to each insurance carrier authorized to write workers' compensation insurance in the state; and it shall be the duty of the *department* ~~division~~ under the account number so assigned to keep the cost experience of each carrier and the cost experience of each employer under the account number so assigned by calendar and policy year, as above defined.

(9) In addition to the above, it shall be the duty of the *department* ~~division~~ to keep the accident experience, as classified by the *department* ~~division~~, by industry as follows:

(a) Cause of the injury;

(b) Nature of the injury; and

(c) Type of disability.

(10) In every case where the duration of disability exceeds 30 days, the carrier shall establish a sufficient reserve to pay all benefits to which the injured employee, or in case of death, his or her dependents, may be entitled to under the law. In establishing the reserve, consideration shall be given to the nature of the injury, the probable period of disability, and the estimated cost of medical benefits.

(11) The *department* ~~division~~ shall furnish to any employer or carrier, upon request, its individual experience. ~~The division shall furnish to the Department of Insurance, upon request, the Florida experience as developed under accident year or calendar year.~~

(12) In addition to any other penalties provided by this law, the failure to submit any report or other information required by this law shall be just cause to suspend the right of a self-insurer to operate as such, or~~, upon certification by the division to the Department of Insurance that a carrier has failed or refused to furnish such reports,~~ shall be just cause for the Department of Insurance to suspend or revoke the license of such carrier.

(13) As used in s. 440.50 and this section, the term:

(a) "Plan" means the workers' compensation joint underwriting plan provided for in s. 627.311(4).

(b) "Fixed administrative expenses" means the expenses of the plan, not to exceed $750,000, which are directly related to the plan's administration but which do not vary in direct relationship to the amount of premium written by the plan and which do not include loss adjustment premiums.

(14) Before July 1 in each year, the plan shall notify the *department* ~~division~~ of the amount of the plan's gross written premiums for the preceding calendar year. Whenever the plan's gross written premiums reported to the *department* ~~division~~ are less than $30 million, the *department* ~~division~~ shall transfer to the plan, subject to appropriation by the Legislature, an amount not to exceed the plan's fixed administrative expenses for the preceding calendar year.

Section 50. Section 440.52, Florida Statutes, is amended to read:

440.52 Registration of insurance carriers; notice of cancellation or expiration of policy; suspension or revocation of authority.—

~~(1) Each insurance carrier who desires to write such compensation insurance in compliance with this chapter shall be required, before writing such insurance, to register with the division and pay a registration fee of $100. This shall be deposited by the division in the fund created by s. 440.50.~~

(1)~~(2)~~ A carrier or self-insurance fund that receives notice pursuant to s. 440.05 shall notify the contractor of the cancellation or expiration of the insurance.

(2)~~(3)~~ If the *department* ~~division~~ finds, after due notice and a hearing at which the insurance carrier is entitled to be heard in person or by counsel and present evidence, that the insurance carrier has repeatedly failed to comply with its obligations under this chapter, the *department* ~~division~~ may ~~request the Department of Insurance to~~ suspend or revoke the authorization of such insurance carrier to write workers' compensation insurance ~~under this chapter~~. Such suspension or revocation shall not affect the liability of any such insurance carrier under policies in force prior to the suspension or revocation.

(3)~~(4)~~ In addition to the penalties prescribed in subsection (3), violation of s. 440.381 by an insurance carrier shall result in the imposition of a fine not to exceed $1,000 per audit, if the insurance carrier fails to act on said audits by correcting errors in employee classification or accepted applications for coverage where it knew employee classifications were incorrect. Such fines shall be levied by the Department of Insurance and deposited into the Insurance Commissioner's Regulatory Trust Fund.

Section 51. Section 440.525, Florida Statutes, is amended to read:

440.525 Examination of carriers.~~—Beginning July 1, 1994,~~ The ~~Division of Workers' Compensation of the~~ department ~~of Labor and Employment Security~~ may examine each carrier as often as is warranted to ensure that carriers are fulfilling their obligations under the law~~, and shall examine each carrier not less frequently than once every 3 years~~. ~~The examination must cover the preceding 3 fiscal years of the carrier's operations and must commence within 12 months after the end of the most recent fiscal year being covered by the examination.~~ The examination may cover any period of the carrier's operations since the last previous examination.

Section 52. Section 440.572, Florida Statutes, is amended to read:

440.572 Authorization for individual self-insurer to provide coverage.—An individual self-insurer having a net worth of not less than $250 million as authorized by s. 440.38(1)(f) may assume by contract the liabilities under this chapter of contractors and subcontractors, or each of them, employed by or on behalf of such individual self-insurer when performing work on or adjacent to property owned or used by the individual self-insurer by the *department* ~~division~~. The net worth of the individual self-insurer shall include the assets of the self-insurer's parent company and its subsidiaries, sister companies, affiliated companies, and other related entities, located within the geographic boundaries of the state.

Section 53. Section 440.59, Florida Statutes, is amended to read:

440.59 Reporting requirements.—

(1) The department ~~of Labor and Employment Security~~ shall annually prepare a report of the administration of this chapter for the preceding calendar year, including a detailed statement of the receipts of and expenditures from the fund established in s. 440.50 and a statement of the causes of the accidents leading to the injuries for which the awards were made, together with such recommendations as the department considers advisable. On or before September 15 of each year, the department shall submit a copy of the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Democratic and Republican Leaders of the Senate and the House of Representatives, and the chairs of the legislative committees having jurisdiction over workers' compensation.

(2) The ~~Division of Workers' Compensation of the~~ department ~~of Labor and Employment Security~~ shall *periodically* complete ~~on a quarterly basis~~ an analysis of the ~~previous quarter's~~ injuries which resulted in workers' compensation claims *as deemed necessary by the department*. The analysis shall *include the information, data, and statistics deemed relevant by the department* ~~be broken down by risk classification, shall show for each such risk classification the frequency and severity for the various types of injury, and shall include an analysis of the causes of such injuries~~. The *department* ~~division~~ shall *make available* ~~distribute~~ to each employer and self-insurer in the state covered by the Workers' Compensation Law the data relevant to its workforce. The report shall also be distributed to the insurers authorized to write workers' compensation insurance in the state.

(3) The *department* ~~division~~ shall annually prepare a closed claim report for all claims for which the employee lost more than 7 days from work and shall submit a copy of the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Democratic and Republican Leaders of the Senate and the House of Representatives, and the chairs of the legislative committees having jurisdiction over workers' compensation on or before September 15 of each year. The closed claim report shall include *information, data, and statistics deemed relevant by the department*~~, but not be limited to, an analysis of all claims closed during the preceding year as to the date of accident, age of the injured employee, occupation of the injured employee, type of injury, body part affected, type and duration of indemnity benefits paid, permanent impairment rating, medical benefits identified by type of health care provider, and type and cost of any rehabilitation benefits provided~~.

(4) The *department* ~~division~~ shall prepare an annual report for all claims for which the employee lost more than 7 days from work and shall

submit a copy of the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Democratic and Republican Leaders of the Senate and the House of Representatives, and the chairs of the legislative committees having jurisdiction over workers' compensation, on or before September 15 of each year. The annual report shall include *information, data, and statistics deemed relevant by the department* ~~a status report on all cases involving work-related injuries in the previous 10 years~~. ~~The annual report shall include, but not be limited to, the number of open and closed cases, the number of cases receiving various types of benefits, the cash and medical benefits paid between the date of injury and the evaluation date, the number of litigated cases, and the amount of attorney's fees paid in each case.~~

(5) The Chief Judge must prepare an annual report summarizing the disposition of mediation conferences and must submit the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Democratic and Republican Leaders of the Senate and the House of Representatives, and the chairs of the legislative committees having jurisdiction over workers' compensation, on or before September 15 of each year.

Section 54. Section 440.591, Florida Statutes, is amended to read:

440.591 Administrative procedure; rulemaking authority.—The *department, the agency, and the Department of Education have* ~~division has~~ authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter conferring duties upon it.

Section 55. Section 440.593, Florida Statutes, is amended to read:

440.593 Electronic reporting.—The *department* ~~division~~ may establish by rule an electronic reporting system whereby an employer or carrier is required to submit information electronically rather than by filing otherwise required forms or reports. The *department* ~~division~~ may by rule establish different deadlines for reporting information to the *department* ~~division~~ via the electronic reporting system than are otherwise required.

Section 56. Subsections (1), (4), and (5) of section 443.012, Florida Statutes, are amended to read:

443.012 Unemployment Appeals Commission.—

(1) There is created within the *Agency for Workforce Innovation* ~~Department of Labor and Employment Security~~ an Unemployment Appeals Commission, hereinafter referred to as the "commission." The commission shall consist of a chair and two other members to be appointed by the Governor, subject to confirmation by the Senate. Not more than one appointee must be a person who, on account of previous vocation, employment, or affiliation, is classified as a representative of employers; and not more than one such appointee must be a person who, on account of previous vocation, employment, or affiliation, is classified as a representative of employees.

(a) The chair shall devote his or her entire time to commission duties and shall be responsible for the administrative functions of the commission.

(b) The chair shall have the authority to appoint a general counsel and such other personnel as may be necessary to carry out the duties and responsibilities of the commission.

(c) The chair shall have the qualifications required by law for a judge of the circuit court and shall not engage in any other business vocation or employment. Notwithstanding any other provisions of existing law, the chair shall be paid a salary equal to that paid under state law to a judge of the circuit court.

(d) The remaining members shall be paid a stipend of $100 for each day they are engaged in the work of the commission. The chair and other members shall also be reimbursed for travel expenses, as provided in s. 112.061.

(e) The total salary and travel expenses of each member of the commission shall be paid from the Employment Security Administration Trust Fund.

(4) The property, personnel, and appropriations relating to the specified authority, powers, duties, and responsibilities of the commission shall be provided to the commission by the *Agency for Workforce Innovation* ~~Department of Labor and Employment Security~~.

(5) The commission shall not be subject to control, supervision, or direction by the *Agency for Workforce Innovation* ~~Department of Labor and Employment Security~~ in the performance of its powers and duties under this chapter.

Section 57. Subsection (12) of section 443.036, Florida Statutes, is amended to read:

443.036 Definitions.—As used in this chapter, unless the context clearly requires otherwise:

(12) COMMISSION.—"Commission" means the Unemployment Appeals Commission ~~of the Department of Labor and Employment Security~~.

Section 58. Subsection (3) of section 447.02, Florida Statutes, is amended to read:

447.02 Definitions.—The following terms, when used in this chapter, shall have the meanings ascribed to them in this section:

(3) The term "department" means the Department of *Business and Professional Regulation* ~~Labor and Employment Security~~.

Section 59. Subsections (1), (3), and (4) of section 447.205, Florida Statutes, are amended to read:

447.205 Public Employees Relations Commission.—

(1) There is hereby created within the Department of *Management Services* ~~Labor and Employment Security~~ the Public Employees Relations Commission, hereinafter referred to as the "commission." The commission shall be composed of a chair and two full-time members to be appointed by the Governor, subject to confirmation by the Senate, from persons representative of the public and known for their objective and independent judgment, who shall not be employed by, or hold any commission with, any governmental unit in the state or any employee organization, as defined in this part, while in such office. In no event shall more than one appointee be a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as a representative of employers; and in no event shall more than one such appointee be a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as a representative of employees or employee organizations. The commissioners shall devote full time to commission duties and shall not engage in any other business, vocation, or employment while in such office. ~~Beginning January 1, 1980, the chair shall be appointed for a term of 4 years, one commissioner for a term of 1 year, and one commissioner for a term of 2 years. Thereafter,~~ Every term of office shall be for 4 years; and each term of the office of chair shall commence on January 1 of the second year following each regularly scheduled general election at which a Governor is elected to a full term of office. In the event of a vacancy prior to the expiration of a term of office, an appointment shall be made for the unexpired term of that office. The chair shall be responsible for the administrative functions of the commission and shall have the authority to employ such personnel as may be necessary to carry out the provisions of this part. Once appointed to the office of chair, the chair shall serve as chair for the duration of the term of office of chair. Nothing contained herein prohibits a chair or commissioner from serving multiple terms.

(3) The commission, in the performance of its powers and duties under this part, shall not be subject to control, supervision, or direction by the Department of *Management Services* ~~Labor and Employment Security~~.

(4) The property, personnel, and appropriations related to the commission's specified authority, powers, duties, and responsibilities shall be provided to the commission by the Department of *Management Services* ~~Labor and Employment Security~~.

Section 60. Subsection (4) of section 447.305, Florida Statutes, is amended to read:

447.305 Registration of employee organization.—

(4) Notification of registrations and renewals of registration shall be furnished at regular intervals by the commission to the Department of *Business and Professional Regulation* ~~Labor and Employment Security~~.

Section 61. Subsection (4) of section 450.012, Florida Statutes, is amended to read:

450.012 Definitions.—For the purpose of this chapter, the word, phrase, or term:

(4) "Department" means the Department of *Business and Professional Regulation* ~~Labor and Employment Security~~.

Section 62. Subsection (2) of section 450.28, Florida Statutes, is amended to read:

450.28 Definitions.—

(2) "Department" means the Department of *Business and Professional Regulation* ~~Labor and Employment Security~~.

Section 63. Subsection (1) of section 450.191, Florida Statutes, is amended to read:

450.191 Executive Office of the Governor; powers and duties.—

(1) The Executive Office of the Governor is authorized and directed to:

(a) Advise and consult with employers of migrant workers as to the ways and means of improving living conditions of seasonal workers;

(b) Cooperate with the Department of Health in establishing minimum standards of preventive and curative health and of housing and sanitation in migrant labor camps and in making surveys to determine the adequacy of preventive and curative health services available to occupants of migrant labor camps;

(c) Provide coordination for the enforcement of ss. 381.008-381.0088;

(d) Cooperate with the other departments of government in coordinating all applicable labor laws, including, but not limited to, those relating to private employment agencies, child labor, wage payments, wage claims, and crew leaders;

(e) Cooperate with the Department of Education to provide educational facilities for the children of migrant laborers;

(f) Cooperate with the Department of Highway Safety and Motor Vehicles to establish minimum standards for the transporting of migrant laborers;

(g) Cooperate with the Department of Agriculture and Consumer Services to conduct an education program for employers of migrant laborers pertaining to the standards, methods, and objectives of the office;

(h) Cooperate with the Department of Children and Family Services in coordinating all public assistance programs as they may apply to migrant laborers;

(i) Coordinate all federal, state, and local programs pertaining to migrant laborers; *and*

(j) Cooperate with the farm labor office of the Department of *Business and Professional Regulation* ~~Labor and Employment Security~~ in the recruitment and referral of migrant laborers and other persons for the planting, cultivation, and harvesting of agricultural crops in Florida.

Section 64. Subsection (3) of section 468.529, Florida Statutes, is amended to read:

468.529 Licensee's insurance; employment tax; benefit plans.—

(3) A licensed employee leasing company shall within 30 days of initiation or termination notify its workers' compensation insurance carrier, the *Department of Insurance* ~~Division of Workers' Compensation~~, and the Division of Unemployment Compensation of the Department of *Revenue* ~~Labor and Employment Security~~ of both the initiation or the termination of the company's relationship with any client company.

Section 65. Subsections (1) and (5) of section 624.3161, Florida Statutes, are amended to read:

624.3161 Market conduct examinations.—

(1) As often as it deems necessary, the department shall examine each licensed rating organization, each advisory organization, each group, association *carrier as defined in s. 440.02,*, or other organization of insurers which engages in joint underwriting or joint reinsurance, and each authorized insurer transacting in this state any class of insurance to which the provisions of chapter 627 are applicable. The examination shall be for the purpose of ascertaining compliance by the person examined with the applicable provisions of chapters *440,* 624, 626, 627, and 635.

(5) Such examinations shall also be subject to the applicable provisions of ss. 624.318, 624.319, 624.321, and 624.322 *and chapter 440*.

Section 66. Paragraph (m) of subsection (1) of section 626.88, Florida Statutes, is amended to read:

626.88 Definitions of "administrator" and "insurer".—

(1) For the purposes of this part, an "administrator" is any person who directly or indirectly solicits or effects coverage of, collects charges or premiums from, or adjusts or settles claims on residents of this state in connection with authorized commercial self-insurance funds or with insured or self-insured programs which provide life or health insurance coverage or coverage of any other expenses described in s. 624.33(1), other than any of the following persons:

(m) A person approved by the *Department of Insurance* ~~Division of Workers' Compensation of the Department of Labor and Employment Security~~ who administers only self-insured workers' compensation plans.

Section 67. Subsection (9) of section 626.989, Florida Statutes, is amended to read:

626.989 Investigation by department or Division of Insurance Fraud; compliance; immunity; confidential information; reports to division; division investigator's power of arrest.—

(9) In recognition of the complementary roles of investigating instances of workers' compensation fraud and enforcing compliance with the workers' compensation coverage requirements under chapter 440, the Division of Insurance Fraud of the Department of Insurance *is* ~~and the Division of Workers' Compensation of the Department of Labor and Employment Security are~~ directed to prepare and submit a ~~joint~~ performance report to the President of the Senate and the Speaker of the House of Representatives by November 1 of each year for each of the next 2 years, and then every 3 years thereafter, describing the results obtained in achieving compliance with the workers' compensation coverage requirements and reducing the incidence of workers' compensation fraud.

Section 68. Section 627.0915, Florida Statutes, is amended to read:

627.0915 Rate filings; workers' compensation, drug-free workplace, and safe employers.—The Department of Insurance shall approve rating plans for workers' compensation insurance that give specific identifiable consideration in the setting of rates to employers that either implement a drug-free workplace program pursuant to rules adopted by the *department* ~~Division of Workers' Compensation of the Department of Labor and Employment Security or implement a safety program approved by the Division of Safety pursuant to rules adopted by the Division of Safety of the Department of Labor and Employment Security~~

~~or implement both a drug-free workplace program and a safety program~~. ~~The Division of Safety may by rule require that the client of a help supply services company comply with the essential requirements of a workplace safety program as a condition for receiving a premium credit.~~ The plans must ~~take effect January 1, 1994, must~~ be actuarially sound, and must state the savings anticipated to result from such drug-testing *program* ~~and safety programs~~.

Section 69. Subsection (5) of section 627.914, Florida Statutes, is amended to read:

627.914 Reports of information by workers' compensation insurers required.—

(5) Self-insurers authorized to transact workers' compensation insurance as provided in s. 440.02 shall report only Florida data as prescribed in paragraphs (a)-(e) of subsection (4) to the *department* ~~Division of Workers' Compensation of the Department of Labor and Employment Security~~.

(a) The *department* ~~Division of Workers' Compensation~~ shall publish the dates and forms necessary to enable self-insurers to comply with this section.

~~(b) The Division of Workers' Compensation shall report the information collected under this section to the Department of Insurance in a manner prescribed by the department.~~

(b)~~(c)~~ A statistical or rating organization may be used by self-insurers for the purposes of reporting the data required by this section and calculating experience ratings.

Section 70. *If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.*

Section 71. *To the extent that any conflict exists between this act and the provisions of SB 1926, or similar legislation, which transfers the Office of Judges of Compensation Claims to the Division of Administration Hearings, the provisions of SB 1926 or the similar legislation shall control.*

Section 72. Unless otherwise expressly provided for in this act, this act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, line 1, through 5, line 29,
remove the entire title of the bill:

and insert in lieu thereof: A bill to be entitled An act relating to The Department of Labor and Employment Security; transferring the Division of Workers' Compensation from the Department of Labor and Employment Security to the Department of Insurance; providing exceptions; transferring various functions, powers, duties, personnel, and assets relating to workers' compensation to the Department of Education, the Agency for Health Care Administration, and the Department of Insurance; amending s. 20.13, F.S.; providing for certain employees of the Division to be given hiring priority by the Department of Insurance; providing pay and employment guidelines for such employees; creating the Division of Workers' Compensation in the Department of Insurance; repealing s. 20.171, F.S., which creates the Department of Labor and Employment Security; amending s. 440.015, F.S.; designating state agencies to administer the workers' compensation law; amending s. 440.02, F.S.; providing definitions; amending ss. 110.025, 440.05, 440.09, 440.10, 440.021, 440.102, 440.103, 440.105, 440.106, 440.107, 440.108, 440.125, 440.13, 440.134, 440.14, 440.15, 440.17, 440.185, 440.191, 440.192, 440.1925, 440.20, 440.207, 440.211, 440.24, 440.25, 440.271, 440.345, 440.35, 440.38, 440.381, 440.385, 440.386, 440.40, 440.41, 440.42, 440.44, 440.49, 440.491, 440.50, 440.51, 440.52, 440.525, 440.572, 440.59, 440.591, 440.593, 443.012, 443.036, 447.02, 447.205, 447.305, 450.12, 450.197, 450.28, 468.529, 626.88, 626.989, 627.0915, 627.914, F.S., to conform to the transfers made by this act; providing for the continuation of contracts and agreements; amending s. 440.4416, F.S.; revising the composition of the Workers' Compensation Oversight Board; providing for substitution of a successor agency as a party in judicial and administrative proceedings; providing severability; amending s. 624.3161, F.S.; providing for market conduct examinations with respect to workers' compensation; providing legislative intent; providing for a type two transfer of the administration of child labor laws to the Department of Business and Professional Regulation; providing for a type two transfer of certain functions of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security relating to labor organizations and migrant and farm labor registration to the Department of Business and Professional Regulation; providing for a type two transfer of other workplace regulation functions to the Department of Business and Professional Regulation; providing appropriations; amending s. 447.02, F.S.; conforming the definition of "department" to the transfer of the regulation of labor organizations to the Department of Business and Professional Regulation; amending s. 450.012, F.S.; conforming the definition of "department" to the transfer of the regulation of child labor to the Department of Business and Professional Regulation; amending s. 450.191, F.S., relating to the duties of the Executive Office of the Governor with respect to migrant labor; conforming provisions to changes made by the act; amending s. 450.28, F.S.; conforming the definition of "department" to the transfer of the regulation of farm labor to the Department of Business and Professional Regulation; providing effective dates.

Rep. Clarke moved the adoption of the amendment.

Representative(s) Clarke offered the following:

(Amendment Bar Code: 674803)

Amendment 1 to Amendment 7—On page 4, line 13,
remove from the amendment: *Twenty-nine*

and insert in lieu thereof: *Effective July 1, 2001, 29*

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

Representative(s) Clarke offered the following:

(Amendment Bar Code: 044825)

Amendment 2 to Amendment 7—On page 7, line 2, after the period,

insert: *Upon completion of this transfer, the State Technology Office and the Department of Insurance shall enter into discussions to determine whether it would be technologically feasible and cost effective to separate the Workers' Compensation Integrated System from its current mainframe platform and transfer ownership of this system to the Department of Insurance. If the Department of Insurance ultimately determines that it is technologically feasible and cost effective to transfer ownership of the Workers' Compensation Integrated System from the State Technology Office to the Department of Insurance, the State Technology Office and the Department of Insurance shall jointly develop and implement a plan to transfer this system to the Department of Insurance.*

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

Representative(s) Clarke offered the following:

(Amendment Bar Code: 821551)

Amendment 3 to Amendment 7 (with title amendment)—On page 10, between lines 1 and 2,

insert: *(22) All rules adopted by the Department of Labor and Employment Security and the authority for such rules relating to the regulation of workers' compensation medical services are transferred to the Agency for Health Care Administration.*

And the title is amended as follows:

On page 188, line 11, after the semicolon,

insert: transferring certain rules to the Agency for Health Care Administration;

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

Representative(s) Clarke offered the following:

(Amendment Bar Code: 680695)

Amendment 4 to Amendment 7—On page 62, line 19 through page 67, line 23,
remove from the amendment: all of said lines

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

Representative(s) Clarke offered the following:

(Amendment Bar Code: 062963)

Amendment 5 to Amendment 7 (with title amendment)—On page 115, line 5, through page 122, line 24,
remove from the amendment: all of said lines,

and insert in lieu thereof:

Section 36. Subsections (1), (2), and (3) of section 440.38, Florida Statutes, are amended to read:

440.38 Security for compensation; insurance carriers and self-insurers.—

(1) Every employer shall secure the payment of compensation under this chapter:

(a) By insuring and keeping insured the payment of such compensation with any stock company or mutual company or association or exchange, authorized to do business in the state;

(b) By furnishing satisfactory proof to the *Florida Self-Insurers Guaranty Association, Incorporated, created in s. 440.385, that it has the financial strength necessary to assure timely payment of all current and future claims* ~~division of its financial ability to pay such compensation~~ individually and on behalf of its subsidiary and affiliated companies with employees in this state and receiving an authorization from the *Department of Insurance,* ~~division~~ to pay such compensation directly. *The association shall review the financial strength of applicants for membership, current members, and former members and make recommendations to the department regarding their qualifications to self-insure* in accordance with *this act and ss. 440.385 and 440.386. The department shall consult with the association on any recommendation before taking action.* ~~the following provisions:~~

1. The *association* ~~division~~ may *recommend that the Department of Insurance*~~, as a condition to such authorization,~~ require *an* ~~such~~ employer to deposit *with* ~~in a depository designated by~~ the *association a qualifying deposit. The association shall recommend the type and amount of the qualifying security deposit and shall* ~~division either an indemnity bond or securities, at the option of the employer, of a kind and in an amount determined by the division and subject to such conditions as the division may~~ prescribe *conditions for the qualifying security deposit*~~,~~ which shall include authorization *for* ~~to~~ the *association to call the qualifying security deposit* ~~division~~ in the case of default ~~to sell any such securities sufficient~~ to pay compensation awards *and related expenses of the association* ~~or to bring suit upon such bonds, to procure prompt payment of compensation under this chapter~~. ~~In addition, the division shall require,~~ As a condition to authorization to self-insure, *the employer shall provide* proof that the employer has provided for competent personnel with whom to deliver benefits and to provide a safe working environment. ~~Further,~~ The *employer* ~~division~~ shall *also provide evidence of* ~~require such employer to carry~~ reinsurance at levels that will ensure the *financial strength and* actuarial soundness of such employer in accordance with rules *adopted* ~~promulgated~~ by the *Department of Insurance* ~~division~~. The *Department of Insurance* ~~division~~ may by rule require that, in the event of an individual self-insurer's insolvency, such *qualifying security deposits* ~~indemnity bonds, securities,~~ and reinsurance policies *are* ~~shall be~~ payable to the *association* ~~Florida Self-Insurers Guaranty Association, Incorporated, created pursuant to s. 440.385~~. Any employer securing compensation in accordance with the provisions of this paragraph shall be known as a self-insurer and shall be classed as a carrier of her or his own insurance. *All such employers shall, if requested, provide the association an actuarial report signed by a member of the American Academy of Actuaries providing an opinion of the appropriate present value of the reserves for current and future compensation claims. If any member or former member of the association refuses to timely provide such a report, the association may obtain an order from a circuit court requiring the member to produce such a report and ordering such other relief as the court determines appropriate. The association shall be entitled to recover all reasonable costs and attorney's fees in such proceedings.*

2. If the employer fails to maintain the foregoing requirements, the *association* ~~division~~ shall *recommend to the Department of Insurance that it* revoke the employer's authority to self-insure, unless the employer provides to the *association* ~~division~~ the certified opinion of an independent actuary who is a member of the American *Academy* ~~Society~~ of Actuaries as to the actuarial present value of the employer's determined and estimated future compensation payments based on cash reserves, using a 4-percent discount rate, and a qualifying security deposit equal to 1.5 times the value so certified. The employer shall thereafter annually provide such a certified opinion until such time as the employer meets the requirements of subparagraph 1. The qualifying security deposit shall be adjusted at the time of each such annual report. Upon the failure of the employer to timely provide such opinion or to timely provide a security deposit in an amount equal to 1.5 times the value certified in the latest opinion, the *association shall provide such information to the department along with a recommendation, and the Department of Insurance* ~~division~~ shall then revoke *an* ~~such~~ employer's authorization to self-insure.~~, and such~~ Failure *to comply with this provision* shall be deemed to constitute an immediate serious danger to the public health, safety, or welfare sufficient to justify the summary suspension of the employer's authorization to self-insure pursuant to s. 120.68.

3. Upon the suspension or revocation of the employer's authorization to self-insure, the employer shall provide to the ~~division and to the Florida Self-Insurers Guaranty~~ association~~, Incorporated, created pursuant to s. 440.385~~ the certified opinion of an independent actuary who is a member of the American *Academy* ~~Society~~ of Actuaries of the actuarial present value of the determined and estimated future compensation payments of the employer for claims incurred while the member exercised the privilege of self-insurance, using a discount rate of 4 percent. The employer shall provide such an opinion at 6-month intervals thereafter until such time as the latest opinion shows no remaining value of claims. With each such opinion, the employer shall deposit with the *association* ~~division~~ a qualifying security deposit in an amount equal to the value certified by the actuary. The association has a cause of action against an employer, and against any successor of the employer, who fails to timely provide such opinion or who fails to timely maintain the required security deposit with the *association* ~~division~~. The association shall recover a judgment in the amount of the actuarial present value of the determined and estimated future compensation payments of the employer for claims incurred while the employer exercised the privilege of self-insurance, together with attorney's fees. For purposes of this section, the successor of an employer means any person, business entity, or group of persons or business entities, which holds or acquires legal or beneficial title to the majority of the assets or the majority of the shares of the employer.

4. A qualifying security deposit shall consist, at the option of the employer, of:

a. Surety bonds, in a form and containing such terms as prescribed by the *association* ~~division~~, issued by a corporation surety authorized to transact surety business by the Department of Insurance, and whose policyholders' and financial ratings, as reported in A.M. Best's Insurance Reports, Property-Liability, are not less than "A" and "V", respectively.

~~b. Certificates of deposit with financial institutions, the deposits of which are insured through the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.~~

b.~~c.~~ Irrevocable letters of credit in favor of the *association* ~~division~~ issued by financial institutions *located within this state, the deposits of which are insured through the Federal Deposit Insurance Corporation* ~~described in sub-subparagraph b~~.

~~d. Direct obligations of the United States Treasury backed by the full faith and credit of the United States.~~

~~e. Securities issued by this state and backed by the full faith and credit of this state.~~

5. The qualifying security deposit shall be held by the *association* ~~division, or by a depository authorized by the division,~~ exclusively for the benefit of workers' compensation claimants. The security shall not be subject to assignment, execution, attachment, or any legal process whatsoever, except as necessary to guarantee the payment of compensation under this chapter. No surety bond may be terminated, and no *letter of credit* ~~other qualifying security~~ may be allowed to *expire* ~~lapse~~, without 90 days' prior *written* notice to the *association* ~~division~~ and *the* deposit by the self-insuring employer of *some* other qualifying security *deposit* of equal value within 10 business days after such notice. Failure to provide such *written* notice or failure to timely provide qualifying replacement security after such notice shall constitute grounds for the *association* ~~division~~ to call or sue upon the surety bond, or to ~~act with respect to other pledged security in any manner necessary to preserve its value for the purposes intended by this section, including the~~ exercise *its* ~~of~~ rights under a letter of credit. *Current self-insured employers must comply with this section on or before December 31, 2001, or upon maturity of existing security deposits, whichever occurs later* ~~the sale of any security at then prevailing market rates, or the withdrawal of any funds represented by any certificate of deposit forming part of the qualifying security deposit~~. The *Department of Insurance* ~~division~~ may specify by rule the amount of the qualifying security deposit required prior to authorizing an employer to self-insure and the amount of net worth required for an employer to qualify for authorization to self-insure;

(c) By entering into a contract with a public utility under an approved utility-provided self-insurance program as set forth in s. *624.46225* ~~440.571~~ in effect as of July 1, 1983. The *Department of Insurance* ~~division~~ shall adopt rules to implement this paragraph;

(d) By entering into an interlocal agreement with other local governmental entities to create a local government pool pursuant to s. 624.4622;

(e) In accordance with s. 440.135, an employer, other than a local government unit, may elect coverage under the Workers' Compensation Law and retain the benefit of the exclusiveness of liability provided in s. 440.11 by obtaining a 24-hour health insurance policy from an authorized property and casualty insurance carrier or an authorized life and health insurance carrier, or by participating in a fully or partially self-insured 24-hour health plan that is established or maintained by or for two or more employers, so long as the law of this state is not preempted by the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, or any amendment to that law, which policy or plan must provide, for at least occupational injuries and illnesses, medical benefits that are comparable to those required by this chapter. A local government unit, as a single employer, in accordance with s. 440.135, may participate in the 24-hour health insurance coverage plan referenced in this paragraph. Disputes and remedies arising under policies issued under this section are governed by the terms and conditions of the policies and under the applicable provisions of the Florida Insurance Code and rules adopted under the insurance code and other applicable laws of this state. The 24-hour health insurance policy may provide for health care by a health maintenance organization or a preferred provider organization. The premium for such 24-hour health insurance policy shall be paid entirely by the employer. The 24-hour health insurance policy may use deductibles and coinsurance provisions that require the employee to pay a portion of the actual medical care received by the employee. If an employer obtains a 24-hour health insurance policy or self-insured plan to secure payment of compensation as to medical benefits, the employer must also obtain an insurance policy or policies that provide indemnity benefits as follows:

1. If indemnity benefits are provided only for occupational-related disability, such benefits must be comparable to those required by this chapter.

2. If indemnity benefits are provided for both occupational-related and nonoccupational-related disability, such benefits must be comparable to those required by this chapter, except that they must be based on 60 percent of the average weekly wages.

3. The employer shall provide for each of its employees life insurance with a death benefit of $100,000.

4. Policies providing coverage under this subsection must use prescribed and acceptable underwriting standards, forms, and policies approved by the Department of Insurance. If any insurance policy that provides coverage under this section is canceled, terminated, or nonrenewed for any reason, the cancellation, termination, or nonrenewal is ineffective until the self-insured employer or insurance carrier or carriers notify the ~~division and the~~ Department of Insurance of the cancellation, termination, or nonrenewal, and until the *Department of Insurance* ~~division~~ has actually received the notification. The *Department of Insurance* ~~division~~ must be notified of replacement coverage under a workers' compensation and employer's liability insurance policy or plan by the employer prior to the effective date of the cancellation, termination, or nonrenewal; or

(f) By entering into a contract with an individual self-insurer under an approved individual self-insurer-provided self-insurance program as set forth in s. 624.46225. The *Department of Insurance* ~~division~~ may adopt rules to implement this subsection.

(2)(a) The *Department of Insurance* ~~division~~ shall adopt rules by which businesses may become qualified to provide underwriting claims-adjusting, loss control, and safety engineering services to self-insurers.

(b) The *Department of Insurance* ~~division~~ shall adopt rules requiring self-insurers to file any reports necessary to fulfill the requirements of this chapter. Any self-insurer who fails to file any report as prescribed by the rules adopted by the *department* ~~division~~ shall be subject to a civil penalty ~~not to exceed $100 for each such failure~~.

(3)~~(a) The license of any stock company or mutual company or association or exchange authorized to do insurance business in the state shall for good cause, upon recommendation of the division, be suspended or revoked by the Department of Insurance. No suspension or revocation shall affect the liability of any carrier already incurred.~~

(a)~~(b)~~ The *Department of Insurance* ~~division~~ shall suspend or revoke any authorization to a self-insurer for *failure to comply with this act or for* good cause, as defined by rule of the *department* ~~division~~. No suspension or revocation shall affect the liability of any self-insurer already incurred.

(b)~~(c)~~ Violation of s. 440.381 by a self-insurance fund shall result in the imposition of a fine not to exceed $1,000 per audit if the self-insurance fund fails to act on said audits by correcting errors in employee classification or accepted applications for coverage where it knew employee classifications were incorrect. Such fines shall be levied by the *Department of Insurance* ~~division~~ and deposited into the Workers' Compensation Administration Trust Fund.

And the title is amended as follows:

On page 189, line 6, of the amendment, after the semicolon,

insert: amending s. 440.38, F.S.; transferring operation of provisions requiring the securing of payment of compensation by employers from the Division of Workers' Compensation of the Department of Labor and Employment Security to the Florida Self-Insurer's Guaranty Association, Incorporated, and the Department of Insurance; revising and clarifying requirements and procedures; providing powers and

duties of the association and the departments; providing for allocation or payment of state funds to the association for certain purposes; providing rulemaking authority;

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

Representative(s) Clarke offered the following:

(Amendment Bar Code: 212573)

Amendment 6 to Amendment 7—On page 186, lines 4-21, remove from the amendment: all of said lines,

and insert in lieu thereof:

627.0915 Rate filings; workers' compensation, drug-free workplace, and safe employers.—The Department of Insurance shall approve rating plans for workers' compensation insurance that give specific identifiable consideration in the setting of rates to employers that either implement a drug-free workplace program pursuant to rules adopted by the Division of Workers' Compensation of the Department of Labor and Employment Security or implement a safety program *pursuant to provisions of the rating plan* ~~approved by the Division of Safety pursuant to rules adopted by the Division of Safety of the Department of Labor and Employment Security~~ or implement both a drug-free workplace program and a safety program. ~~The Division of Safety may by rule require that the client of a help supply services company comply with the essential requirements of a workplace safety program as a condition for receiving a premium credit.~~ The plans must ~~take effect January 1, 1994, must~~ be actuarially sound, and must state the savings anticipated to result from such drug-testing and safety programs.

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

On motion by Rep. Miller, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Clarke, Alexander, and Miller offered the following:

(Amendment Bar Code: 920569)

Amendment 7 to Amendment 7 (with title amendment)—On page 178, between lines 21 and 22 of the amendment

insert:

Section 1. Effective July 1, 2001, section 633.801, Florida Statutes, is created to read:

633.801 Short title.—Sections 633.801 through 633.825 may be cited as the "Florida Firefighter Occupational Safety and Health Act."

Section 2. Effective July 1, 2001, section 633.802, Florida Statutes, is created to read:

633.802 Definitions.—As used in ss. 633.801-633.825, unless the context clearly indicates otherwise, the term:

(1) "Department" means the Department of Insurance.

(2) "Division" means the Division of State Fire Marshal of the Department of Insurance.

(3) "Firefighter employee" means any person engaged in any employment, public or private, as a firefighter under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and responding to or assisting with fire and medical emergencies whether or not the firefighter is on duty, except those appointed under s. 590.02(1)(d).

(4) "Firefighter employer" means the state and all political subdivisions thereof, all public and quasi-public corporations therein, and any person carrying on any employment thereof, which employs firefighters or which uses volunteer firefighters, except those appointed under s. 590.02(1)(d).

(5) "Firefighter employment" or "employment" means any service performed by a firefighter employee for the firefighter employer.

(6) "Place of firefighter employment" or "place of employment" means the physical location at which the firefighter is employed.

Section 3. Effective July 1, 2001, section 633.803, Florida Statutes, is created to read:

633.803 Legislative intent.—It is the intent of the Legislature to enhance firefighter occupational safety and health in this state through the implementation and maintenance of policies, procedures, practices, rules, and standards that reduce the incidence of firefighter employee accidents, firefighter occupational diseases, and firefighter fatalities compensable under chapter 440 or otherwise. The Legislature further intends that the division develop a means by which it can identify individual firefighter employers with a high frequency or severity of work-related injuries, conduct safety inspections of those firefighter employers, and assist those firefighter employers in the development and implemention of firefighter employee safety and health programs. In addition, it is the intent of the Legislature that the division administer the provisions of ss. 633.801-633.825; provide assistance to firefighter employers, firefighter employees, and insurers; and enforce the policies, rules, and standards set forth in ss. 633.801-633.825.

Section 4. Effective July 1, 2001, section 633.804, Florida Statutes, is created to read:

633.804 Safety inspections, consultations; rules.—The division shall adopt rules governing the manner, means, and frequency of firefighter employer and firefighter employee safety inspections and consultations by all insurers and self-insurers.

Section 5. Effective July 1, 2001, section 633.805, Florida Statutes, is created to read:

633.805 Division to make study of firefighter occupational diseases, etc.—The division shall make a continuous study of firefighter occupational diseases and the ways and means for their control and prevention and shall make and enforce necessary regulations for such control. For this purpose, the division is authorized to cooperate with firefighter employers, firefighter employees, and insurers and with the Department of Health.

Section 6. Effective July 1, 2001, section 633.806, Florida Statutes, is created to read:

633.806 Investigations by the division; refusal to admit; penalty.—

(1) The division shall make studies and investigations with respect to safety provisions and the causes of firefighter injuries in places of firefighter employment, and shall make to the Legislature and firefighter employers and insurers such recommendations as it considers proper as to the best means of preventing firefighter injuries. In making such studies and investigations, the division may:

(a) Cooperate with any agency of the United States charged with the duty of enforcing any law securing safety against injury in any place of firefighter employment covered by ss. 633.801-633.825, or any agency or department of the state engaged in enforcing any law to assure safety for firefighter employees.

(b) Allow any such agency or department to have access to the records of the division.

(2) The division by rule may adopt procedures for conducting investigations of firefighter employers under ss. 633.801-633.825.

Section 7. Effective July 1, 2001, section 633.807, Florida Statutes, is created to read:

633.807 Safety; firefighter employer responsibilities.—Every firefighter employer shall furnish to firefighters employment that is safe for the firefighter employees, furnish and use safety devices and safeguards, adopt and use methods and processes reasonably adequate to render such an employment and place of employment safe, and do every other thing reasonably necessary to protect the lives, health, and

safety of such firefighter employees. As used in this section, the terms "safe" and "safety" as applied to any employment or place of firefighter employment mean such freedom from danger as is reasonably necessary for the protection of the lives, health, and safety of firefighter employees, including conditions and methods of sanitation and hygiene. Safety devices and safeguards required to be furnished by the firefighter employer by this section or by the division under authority of this section shall not include personal apparel and protective devices that replace personal apparel normally worn by firefighter employees during regular working hours.

Section 8. Effective July 1, 2001, section 633.808, Florida Statutes, is created to read:

633.808 Division authority.—The division shall:

(1) Investigate and prescribe by rule what safety devices, safeguards, or other means of protection must be adopted for the prevention of accidents in every place of firefighter employment or at any fire scene; determine what suitable devices, safeguards, or other means of protection for the prevention of occupational diseases must be adopted or followed in any or all such places of firefighter employment or at any fire scene; and adopt reasonable rules for the prevention of accidents, the safety, protection, and security of firefighters engaged in interior firefighting, and the prevention of occupational diseases.

(2) Ascertain, fix, and order such reasonable standards and rules for the construction, repair, and maintenance of places of firefighter employment as shall render them safe. Such rules and standards must be adopted in accordance with chapter 120.

(3) Assist firefighter employers in the development and implementation of firefighter employee safety training programs by contracting with professional safety organizations.

(4) Adopt rules prescribing recordkeeping responsibilities for firefighter employers, which may include rules for maintaining a log and summary of occupational injuries, diseases, and illnesses and for producing on request a notice of injury and firefighter employee accident investigation records, and rules prescribing a retention schedule for such records.

Section 9. Effective July 1, 2001, section 633.810, Florida Statutes, is created to read:

633.810 Firefighter employers whose firefighter employees have a high frequency or severity of work-related injuries.—The division shall develop a means by which it can identify individual firefighter employers whose firefighter employees have a high frequency or severity of work-related injuries. The division shall carry out safety inspections of the facilities and operations of these firefighter employers in order to assist them in reducing the frequency and severity of work-related injuries. The division shall develop safety and health programs for those firefighter employers. Insurers shall distribute these safety and health programs to the firefighter employers so identified by the division. Those firefighter employers identified by the division as having a high frequency or severity of work-related injuries shall implement a division-developed safety and health program. The division shall carry out safety inspections of those firefighter employers so identified to ensure compliance with the safety and health program and to assist such firefighter employers in reducing the number of work-related injuries. The division may not assess penalties as the result of such inspections, except as provided by s. 633.813. Copies of any report made as the result of such an inspection must be provided to the firefighter employer and its insurer. Firefighter employers may submit their own safety and health programs to the division for approval in lieu of using the division-developed safety and health program. The division must promptly review the program submitted and approve or disapprove it. Upon approval by the division, the program must be implemented by the firefighter employer. If the program is not approved or if a program is not submitted, the firefighter employer must implement the division-developed program. The division shall adopt rules setting forth the criteria for safety and health programs, as such rules relate to this section.

Section 10. Effective July 1, 2001, section 633.812, Florida Statutes, is created to read:

633.812 Workplace safety committees and safety coordinators.—

(1) In order to promote health and safety in places of firefighter employment in this state:

(a) Each firefighter employer of 20 or more firefighter employees shall establish and administer a workplace safety committee in accordance with rules adopted under this section.

(b) Each firefighter employer of fewer than 20 firefighter employees that is identified by the division as having a high frequency or severity of work-related injuries shall establish and administer a workplace safety committee or designate a workplace safety coordinator who shall establish and administer workplace safety activities in accordance with rules adopted under this section.

(2) The division shall adopt rules:

(a) Prescribing the membership of the workplace safety committees so as to ensure an equal number of firefighter employee representatives, who are volunteers or are elected by their peers, and of firefighter employer representatives and specifying the frequency of meetings.

(b) Requiring firefighter employers to make adequate records of each meeting and to file and maintain the records subject to inspection by the division.

(c) Prescribing the duties and functions of the workplace safety committee and workplace safety coordinator, which include, but are not limited to:

1. Establishing procedures for workplace safety inspections by the committee.

2. Establishing procedures investigating all workplace accidents, safety-related incidents, illnesses, and deaths.

3. Evaluating accident prevention and illness prevention programs.

4. Prescribing guidelines for the training of workplace safety committee members.

(3) The composition, selection, and function of workplace safety committees shall be a mandatory topic of negotiations with any certified collective bargaining agent for firefighter employers that operate under a collective bargaining agreement. Firefighter employers that operate under a collective bargaining agreement that contains provisions regulating the formation and operation of workplace safety committees that meet or exceed the minimum requirements contained in this section, or that otherwise have existing workplace safety committees that meet or exceed the minimum requirements established by this section, are in compliance with this section.

(4) Firefighter employees must be compensated at their regular hourly wages while engaged in workplace safety committee or workplace safety coordinator training, meetings, or other duties prescribed under this section.

Section 11. Effective July 1, 2001, section 633.813, Florida Statutes, is created to read:

633.813 Firefighter employer penalties.—If any firefighter employer violates or fails or refuses to comply with ss. 633.801-633.825, any rule adopted by the division in accordance with chapter 120 for the prevention of injuries, accidents, or occupational diseases, or any lawful order of the division in connection with ss. 633.801-633.825, or fails or refuses to furnish or adopt any safety device, safeguard, or other means of protection prescribed by the division under ss. 633.801-633.825 for the prevention of accidents or occupational diseases, the division may assess against the firefighter employer a civil penalty of not less than $100 nor more than $5,000 for each day the violation, failure, or refusal continues after the firefighter employer has been given notice thereof in writing. The total penalty for each violation may not exceed $50,000. The division shall adopt rules requiring penalties commensurate with the frequency

or severity, or both, of safety violations. A hearing must be held in the county where the violation, failure, or refusal is alleged to have occurred unless otherwise agreed to by the firefighter employer and authorized by the division. All penalties assessed and collected under this section shall be deposited in the Insurance Commissioner's Regulatory Trust Fund.

Section 12. Effective July 1, 2001, section 633.814, Florida Statutes, is created to read:

633.814 Division cooperation with Federal Government; exemption from division requirements.—

(1) The division shall cooperate with the Federal Government so that duplicate inspections will be avoided yet assure safe places of firefighter employment for the citizens of this state.

(2) Except as provided in this section, a private firefighter employer is not subject to the requirements of the division if:

(a) The private firefighter employer is subject to the federal regulations in 29 C.F.R. ss. 1910 and 1926;

(b) The private firefighter employer has adopted and implemented a written safety program that conforms to the requirements of 29 C.F.R. ss. 1910 and 1926;

(c) A private firefighter employer with 20 or more full-time firefighter employees includes provisions for a workplace safety committee in its safety program. The workplace safety committee must include firefighter employee representation and must meet at least once each calendar quarter. The private firefighter employer must make adequate records of each meeting and maintain the records subject to inspections under subsection (3). The workplace safety committee shall, if appropriate, make recommendations regarding improvements to the safety program and corrections of hazards affecting workplace safety; and

(d) The private firefighter employer provides the division with a written statement that certifies compliance with this subsection.

(3) The division may enter at any reasonable time any place of firefighter employment for the purpose of verifying the accuracy of the written certification required pursuant to paragraph (2)(d). If the division determines that the firefighter employer has not complied with the requirements of subsection (2), the firefighter employer shall be subject to the rules of the division until the firefighter employer complies with subsection (2) and recertifies that fact to the division.

(4) This section shall not restrict the division from performing any duties pursuant to a written contract between the division and the federal Occupational Safety and Health Administration (OSHA).

Section 13. Effective July 1, 2001, section 633.815, Florida Statutes, is created to read:

633.815 Failure to implement a safety and health program; cancellations.—If a firefighter employer that is found by the division to have a high frequency or severity of work-related injuries fails to implement a safety and health program, the insurer or self-insurer's fund that is providing coverage for the firefighter employer may cancel the contract for insurance with the firefighter employer. In the alternative, the insurer or fund may terminate any discount or deviation granted to the firefighter employer for the remainder of the term of the policy. If the contract is canceled or the discount or deviation is terminated, the insurer must make such reports as are required by law.

Section 14. Effective July 1, 2001, section 633.816, Florida Statutes, is created to read:

633.816 Expenses of administration.—The amounts that are needed to administer ss. 633.801-633.825 shall be disbursed from the Insurance Commissioner's Regulatory Trust Fund.

Section 15. Effective July 1, 2001, section 633.817, Florida Statutes, is created to read:

633.817 Refusal to admit; penalty.—The division and its authorized representatives may enter and inspect any place of firefighter employment at any reasonable time for the purpose of investigating compliance with ss. 633.801-633.825 and conducting inspections for the proper enforcement of ss. 633.801-633.825. A firefighter employer who refuses to admit any member of the division or its authorized representative to any place of employment or to allow investigation and inspection pursuant to this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 16. Effective July 1, 2001, section 633.818, Florida Statutes, is created to read:

633.818 Firefighter employee rights and responsibilities.—

(1) Each firefighter employee of a firefighter employer covered under ss. 633.801-633.825 shall comply with rules adopted by the division and with reasonable workplace safety and health standards, rules, policies, procedures, and work practices established by the firefighter employer and the workplace safety committee. A firefighter employee who knowingly fails to comply with this subsection may be disciplined or discharged by the firefighter employer.

(2) A firefighter employer may not discharge, threaten to discharge, cause to be discharged, intimidate, coerce, otherwise discipline, or in any manner discriminate against a firefighter employee for any of the following reasons:

(a) The firefighter employee has testified or is about to testify, on her or his own behalf or on behalf of others, in any proceeding instituted under ss. 633.801-633.825;

(b) The firefighter employee has exercised any other right afforded under ss. 633.801-633.825; or

(c) The firefighter employee is engaged in activities relating to the workplace safety committee.

(3) Neither pay, position, seniority, nor other benefit may be lost for exercising any right under, or for seeking compliance with any requirement of, ss. 633.801-633.825.

Section 17. Effective July 1, 2001, section 633.819, Florida Statutes, is created to read:

633.819 Compliance.—Failure of a firefighter employer or an insurer to comply with ss. 633.801-633.825 or with any rules adopted thereunder constitutes grounds for the division to seek remedies, including injunctive relief, for noncompliance by making appropriate filings with the circuit court.

Section 18. Effective July 1, 2001, section 633.820, Florida Statutes, is created to read:

633.820 False statements to insurers.—A firefighter employer who knowingly and willfully falsifies or conceals a material fact, makes a false, fictitious, or fraudulent statement or representation, or makes or uses any false document knowing the document to contain any false, fictitious, or fraudulent entry or statement to an insurer of workers' compensation insurance under ss. 633.801-633.825 commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 19. Effective July 1, 2001, section 633.823, Florida Statutes, is created to read:

633.823 Matters within jurisdiction of the division; false, fictitious, or fraudulent acts, statements, and representations prohibited; penalty; statute of limitations.—A person may not, in any matter within the jurisdiction of the division, knowingly and willfully falsify or conceal a material fact; make any false, fictitious, or fraudulent statement or representation; or make or use any false document, knowing the same to contain any false, fictitious, or fraudulent statement or entry. A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The statute of limitations for prosecution of an act committed in violation of this section is 5 years after the date the act was committed or, if not discovered within 30 days after the act was committed, 5 years after the date the act was discovered.

Section 20. Effective July 1, 2001, section 633.824, Florida Statutes, is created to read:

633.824 Volunteer firefighters; volunteer fire departments.—Sections 633.803-633.825 apply to volunteer firefighters and volunteer fire departments.

Section 21. Effective July 1, 2001, section 633.825, Florida Statutes, is created to read:

633.825 Workplace safety.—

(1) The division shall assist in making places of firefighter employment safer places to work and decreasing the frequency and severity of work-related injuries.

(2) The division shall have the authority to adopt rules for the purpose of assuring safe working conditions for all firefighter employees by authorizing the enforcement of effective standards, assisting and encouraging firefighter employers to maintain safe working conditions, and providing for education and training in the field of safety. Specifically, the division may by rule adopt all or any part of subparts C through T and subpart Z of 29 C.F.R. part 1910 as revised April 8, 1998; the National Fire Protection Association, Inc., Standard 1500, paragraph 5-7 (Personal Alert Safety System) (1992 edition); and ANSI A 10.4-1990.

(3) With respect to 29 C.F.R. s. 1910.134(g)(4), the two individuals located outside the immediately dangerous to life and health atmosphere may be assigned to an additional rule, such as incident commander, pumper operator, engineer, or driver, so long as such individual is able to immediately perform assistance or rescue activities without jeopardizing the safety or health of any firefighter working at an incident. Also with respect to 29 C.F.R. s. 1910.134(g)(4):

(a) Each county, municipality, or special district shall implement such provision by April 1, 2002, except as provided in paragraph (b).

(b) If any county, municipality, or special district is unable to implement such provision by April 1, 2002, without adding additional personnel to its firefighting staff or expending significant additional funds, such county, municipality, or special district shall have an additional 6 months within which to implement such provision. Such county, municipality, or special district shall notify the division that the 6-month extension to implement such provision is in effect in such county, municipality, or special district within 30 days after its decision to extend the time for an additional 6 months. The decision to extend the time for implementation shall be made prior to April 1, 2002.

(c) If, after the extension granted in paragraph (b), the county, municipality, or special district, after having worked with and cooperated fully with the division and the Firefighters Employment, Standards, and Training Council, is still unable to implement such provision without adding additional personnel to its firefighting staff or expending significant additional funds, such county, municipality, or special district shall be exempt from the requirements of 29 C.F.R. s. 1910.134(g)(4). Nevertheless, each year thereafter the division shall review each such county, municipality, or special district to determine if such county, municipality, or special district has the ability to implement such provision without adding additional personnel to its firefighting staff or expending significant additional funds. If the division determines that any county, municipality, or special district has the ability to implement such provision without adding additional personnel to its firefighting staff or expending significant additional funds, the division shall require such county, municipality, or special district to implement such provision. Such requirement by the division under this paragraph constitutes final agency action subject to chapter 120.

(4) The provisions of chapter 440 which pertain to workplace safety shall be applicable to the division.

(5) The division shall have the authority to adopt any rule necessary to implement, interpret, and make specific the provisions of this section; however, the division may not adopt by rule any other standard or standards of the Occupational Safety and Health Administration or the National Fire Protection Association without specific legislative authority.

Section 22. Paragraph (c) of subsection (3) of section 383.3362, Florida Statutes, is amended to read:

383.3362 Sudden Infant Death Syndrome.—

(3) TRAINING.—

(c) The Department of Health, in consultation with the Emergency Medical Services Advisory Council, the Firefighters *Employment,* Standards, and Training Council, and the Criminal Justice Standards and Training Commission, shall develop and adopt, by rule, curriculum that, at a minimum, includes training in the nature of SIDS, standard procedures to be followed by law enforcement agencies in investigating cases involving sudden deaths of infants, and training in responding appropriately to the parents or caretakers who have requested assistance.

Section 23. Subsection (4) of section 633.30, Florida Statutes, is amended to read:

633.30 Standards for firefighting; definitions.—As used in this chapter:

(4) "Council" means the Firefighters *Employment,* Standards, and Training Council.

Section 24. Effective July 1, 2001, subsections (1) and (2) of section 633.31, Florida Statutes, are amended to read:

633.31 Firefighters *Employment,* Standards, and Training Council.—

(1) There is created within the Department of Insurance a Firefighters *Employment,* Standards, and Training Council of *thirteen* ~~nine~~ members appointed by the State Fire Marshal. Two members shall be fire chiefs *who shall be appointed by the Florida Fire Chiefs Association*, two members shall be firefighters who are not officers *who shall be appointed by the Florida Professional Firefighters' Association*, two members shall be firefighter officers who are not fire chiefs *who shall be appointed by the State Fire Marshal, one member shall be appointed by the Florida League of Cities, one member shall be appointed by the Florida Association of Counties, one member shall be appointed by the Florida Association of Special Districts, one member shall be appointed by the Florida Fire Marshal's Association, one member shall be appointed by the State Fire Marshal*, and one member shall be a director or instructor of a state-certified firefighting training facility *who shall be appointed by the State Fire Marshal*. To be eligible for appointment as a fire chief member, firefighter officer member, firefighter member, or a director or instructor of a state-certified firefighting facility, a person shall have had at least 4 years' experience in the firefighting profession. The remaining *member, who shall be appointed by the State Fire Marshal,* ~~two members~~ shall not be *a member or representative* ~~members~~ of the firefighting profession *or of any local government*. Members shall serve only as long as they continue to meet the criteria under which they were appointed, or unless a member has failed to appear at three consecutive and properly noticed meetings unless excused by the chair.

(2) ~~Initially, the State Fire Marshal shall appoint three members for terms of 4 years, two members for terms of 3 years, two members for terms of 2 years, and two members for terms of 1 year. Thereafter,~~ Members shall be appointed for 4-year terms and in no event shall a member serve more than two consecutive terms. Any vacancy shall be filled in the manner of the original appointment for the remaining time of the term.

Section 25. Subsection (4) of section 633.32, Florida Statutes, is amended to read:

633.32 Organization; meetings; quorum; compensation; seal.—

(4) The council may adopt a seal for its use containing the words "Firefighters *Employment,* Standards, and Training Council."

Section 26. Subsections (4) and (5) of section 633.33, Florida Statutes, are amended to read:

633.33 Special powers; firefighter training.—The council shall have special powers in connection with the employment and training of firefighters to:

(4) Consult and cooperate with any employing agency, university, college, community college, the Florida State Fire College, or other educational institution concerning the *employment and safety of firefighters, including, but not limited to, the safety of firefighters while at the scene of a fire and at the scene of any incident related to emergency services to which a firefighter responds,* development of firefighter training schools and programs of courses of instruction, including, but not limited to, education and training in the areas of fire science, fire technology, fire administration, and all allied and supporting fields.

(5) Make or support studies on any aspect of firefighting *employment,* education*,* and training or recruitment.

And the title is amended as follows:

On page 190, of the amendment

after the semicolon, insert: creating ss. 633.801, 633.802, 633.803, 633.804, 633.805, 633.806, 633.807, 633.808, 633.810, 633.812, 633.813, 633.814, 633.815, 633.816, 633.817, 633.818, 633.819, 633.820, 633.823, 633.824, and 633.825, F.S.; designating such sections as the Florida Firefighter Occupational Safety and Health Act; providing definitions; providing legislative intent; authorizing the Division of State Fire Marshal to adopt rules related to firefighter safety inspections; requiring the division to conduct a study; requiring firefighter employers to provide safe employment conditions; authorizing the division to adopt rules that prescribe means for preventing accidents in places of firefighter employment and establish standards for construction, repair, and maintenance; requiring the division to inspect places of firefighter employment and to develop safety and health programs for those firefighter employers whose employees have a high frequency or severity of work-related injuries; requiring certain firefighter employers to establish workplace safety committees and to maintain certain records; providing penalties for firefighter employers who violate provisions of the act; providing exemptions; providing for the source of funding of the division; specifying firefighter employee rights and responsibilities; providing penalties for firefighter employers who make false statements to the division or to an insurer; specifying applicability to volunteer firefighters and volunteer fire departments; authorizing the division to adopt rules for assuring safe working conditions for all firefighter employees; amending s. 633.31, F.S.; changing the name and membership of the Firefighters Standards and Training Council; amending ss. 383.3362, 633.30, and 633.32, F.S., to conform; amending s. 633.33, F.S.; revising certain powers of the council

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

On motion by Rep. Ross, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Ross offered the following:

(Amendment Bar Code: 561695)

Amendment 8 to Amendment 7—On page 127, line 9, after the period,

insert: *As of December 31, 2003, six members of the board shall be individual self-insurers in this state. The board members who are individual self-insurers shall be officers or full-time employees of the self-insured company they represent. If the individual self-insurer board member's company voluntarily withdraws such member's privilege to self-insure, the board member may complete the remaining term of his or her appointment.*

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

The question recurred on the adoption of **Amendment 7**, as amended, which was adopted.

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

HB 1845—A bill to be entitled An act relating to the criminal use of personal identification information; amending s. 817.568, F.S.; revising the definition of "harass"; deleting the definitions of "individual" and "person"; revising the definition of "personal identification information"; adding an offense for obtaining or using personal identification information without authorization; revising the provision for offense of harassment by use of personal identification information; revising the provision for offense of fraudulent use of personal identification information; adding a provision for reclassifying offenses involving unlawful use of a public record; revising the provision authorizing sentencing court to order restitution; adding a provision for venue; amending s. 775.15, F.S.; adding a provision extending the period within which prosecutions may be commenced; amending s. 921.0022, F.S.; revising the Florida Criminal Punishment Code Offense Severity Ranking Chart to include fraudulent use of personal identification information; amending s. 921.0024, F.S.; revising the Florida Criminal Punishment Code to increase sentencing points for unlawful use of a public record in committing an offense under s. 817.568, F.S.; providing an effective date.

—was read the second time by title.

The Committee on Crime Prevention, Corrections & Safety offered the following:

(Amendment Bar Code: 160185)

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

and insert in lieu thereof:

Section 1. Section 817.568, Florida Statutes, is amended to read:

817.568 Criminal use of personal identification information.—

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

(a) "Access device" means any card, plate, code, account number, electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds, other than a transfer originated solely by paper instrument.

(b) "Authorization" means empowerment, permission, or competence to act.

(c) "Harass" means to engage in conduct directed at a specific person that is intended to cause substantial emotional distress to such person and serves no legitimate purpose. "Harass" does not mean to use personal identification information for accepted commercial purposes. The term does not include constitutionally protected conduct such as organized protests or the use of personal identification information for accepted commercial purposes.

(d) "Individual" means a single human being and does not mean a firm, association of individuals, corporation, partnership, joint venture, sole proprietorship, or any other entity.

(e) "Person" means a "person" as defined in s. 1.01(3).

(f) "Personal identification information" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any:

1. Name, social security number, date of birth, official state-issued or United States-issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number, or Medicaid or food stamp account number;

2. Unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

3. Unique electronic identification number, address, or routing code; or

4. Telecommunication identifying information or access device.

(2)*(a)* Any person who willfully and without authorization fraudulently uses, or possesses with intent to fraudulently use, personal identification information concerning an individual without first obtaining that individual's consent, commits the offense of fraudulent use of personal identification information, which is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who willfully and without authorization fraudulently uses personal identification information concerning an individual without first obtaining that individual's consent commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of the injury or fraud perpetrated is $75,000 or more.

(3) Any person who willfully and without authorization possesses, uses, or attempts to use personal identification information concerning an individual without first obtaining that individual's consent, and who does so for the purpose of harassing that individual, commits the offense of harassment by use of personal identification information, which is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) If an offense prohibited under this section was facilitated or furthered by the use of a public record, as defined in s. 119.011, the offense is reclassified to the next higher degree as follows:

(a) A misdemeanor of the first degree is reclassified as a felony of the third degree.

(b) A felony of the third degree is reclassified as a felony of the second degree.

(c) A felony of the second degree is reclassified as a felony of the first degree.

For purposes of sentencing under chapter 921 and incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 of the felony offense committed, and a misdemeanor offense that is reclassified under this subsection is ranked in level 2 of the offense severity ranking chart in s. 921.0022.

(5)~~(4)~~ This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of this state or any of its political subdivisions, of any other state or its political subdivisions, or of the Federal Government or its political subdivisions.

(6)~~(5)~~(a) In sentencing a defendant convicted of an offense under this section, the court may order that the defendant make restitution pursuant to s. 775.089 to any victim of the offense. In addition to the victim's out-of-pocket costs, such restitution may include payment of any other costs, including attorney's fees incurred by the victim in clearing the victim's credit history or credit rating, or any costs incurred in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as the result of the actions of the defendant.

(b) The sentencing court may issue such orders as are necessary to correct any public record that contains false information given in violation of this section.

(7)~~(6)~~ Prosecutions for violations of this section may be brought on behalf of the state by any state attorney or by the statewide prosecutor.

(8) LEGISLATIVE FINDING. The Legislature finds that, in the absence of evidence to the contrary, the location where a victim gives or fails to give consent to the use of personal identification information is the county where the victim generally resides.

(9) Notwithstanding any other provision of law, venue for the prosecution and trial of violations of this section may be commenced and maintained in any county in which an element of the offense occurred, including the county where the victim generally resides.

(10) A prosecution of an offense prohibited under subsection (2) must be commenced within 3 years after the offense occurred. However, a prosecution may be commenced within 1 year after discovery of the offense by an aggrieved party, or by a person who has a legal duty to represent the aggrieved party and who is not a party to the offense, if such prosecution is commenced within 5 years after the violation occurred.

Section 2. Paragraphs (d) and (e) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(d) LEVEL 4
316.1935(3)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a marked patrol vehicle with siren and lights activated.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
784.075	3rd	Battery on detention or commitment facility staff.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
784.081(3)	3rd	Battery on specified official or employee.
784.082(3)	3rd	Battery by detained person on visitor or other detainee.
784.083(3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
787.03(1)	3rd	Interference with custody; wrongly takes child from appointed guardian.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
790.115(2)(c)	3rd	Possessing firearm on school property.
800.04(7)(d)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

Florida Statute	Felony Degree	Description
810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014(2)(c)3.	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.
812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
817.568(2)(a)	*3rd*	*Fraudulent use of personal identification information.*
828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
874.05(1)	3rd	Encouraging or recruiting another to join a criminal street gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).
914.14(2)	3rd	Witnesses accepting bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
918.12	3rd	Tampering with jurors.
		(e) LEVEL 5
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
790.01(2)	3rd	Carrying a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163	2nd	False report of deadly explosive.
790.165(2)	3rd	Manufacture, sell, possess, or deliver hoax bomb.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms or electronic weapons or devices.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
800.04(7)(c)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
817.568(2)(b)	*2nd*	*Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, $75,000 or more.*
825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
843.01	3rd	Resist officer with violence to person; resist arrest with violence.
874.05(2)	2nd	Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility or school.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 200 feet of university or public park.
893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 200 feet of public housing facility.
893.13(4)(b)	2nd	Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).

Section 3. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1,
remove from the title of the bill: the entire title

and insert in lieu thereof: An act relating to the criminal use of personal information; amending s. 817.568, F.S.; providing that the willful and fraudulent use of personal identification information of another individual is a felony of the second degree if the value of the pecuniary benefit services received, payment sought to be avoided, or injury or fraud perpetrated is of a specified amount or more; providing for reclassification of certain offenses involving the criminal use of personal-identification information if the offense was facilitated by the use of a public record; requiring that such offense be prosecuted in the county where the victim resides or in a county where any element of the offense occurred; limiting the time within which a person who fraudulently uses personal-identification information must be prosecuted; amending s. 921.0022, F.S., relating to the the offense severity ranking chart of the Criminal Punishment Code; ranking offenses relating to fraudulent use of personal identification information; providing an effective date.

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

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

HB 1977—A bill to be entitled An act relating to state planning and budgeting; amending s. 216.011, F.S.; modifying the definitions of "operating capital outlay" and "state agency"; amending s. 216.013, F.S.; removing the requirement for the Executive Office of the Governor to consider certain findings relating to information technology in its review of long-range program plans of executive agencies; requiring long-range program plans to be consistent with legislation implementing the General Appropriations Act; amending s. 216.023, F.S.; revising requirements of legislative budget requests relating to the total number of positions and to unit-cost data; requiring legislative budget requests to include an inventory of litigation requiring additional appropriations or changes in the law; providing for update of such inventory; amending s. 216.0446, F.S.; correcting terminology; amending s. 216.081, F.S.; revising provisions requiring submission to the Governor of information on financial needs for the next fiscal year to remove applicability to the judicial branch; amending s. 216.151, F.S.; adding the judicial branch to entities the Executive Office of the Governor is required to study for budgeting and reorganizational purposes; amending s. 216.163, F.S.; revising requirements for the Governor's recommended budget to exclude recommendations of the Chief Justice of the Supreme Court, require the Governor to make such recommendations, and include the legislative budget request of the judicial branch; amending s. 216.177, F.S.; revising the manner in which requests regarding legislative intent on the General Appropriations Act are to be made; revising requirements relating to notice of action on appropriations to be taken by the Executive Office of the Governor or the Chief Justice of the Supreme Court; deleting an obsolete notice requirement; amending s. 216.181, F.S.; requiring budget amendments for the judicial branch to be approved by the Chief Justice of the Supreme Court and the Legislative Budget Commission; authorizing the Chief Justice to amend, without approval of the Legislative Budget Commission, judicial branch entity budgets to reflect transferred funds based on the approved plans for lump-sum appropriations; requiring approval of the Legislative Budget Commission for certain adjustments to approved salary rate; providing circumstances under which lump-sum bonuses may be provided; requiring quarterly reporting of positions filled, positions vacant, and the salary rate associated with each category; granting the Legislative Budget Commission authority to approve state trust fund appropriations in excess of $1 million; creating s. 216.1815, F.S.; providing for an agency incentive and savings program; providing requirements; creating s. 216.1826, F.S.; providing for activity-based planning and budgeting; amending s. 216.192, F.S.; conforming provisions; amending s. 216.216, F.S.; providing restrictions on the expenditure of funds for court settlements negotiated by the state; amending s. 216.221, F.S.; providing requirements for the elimination of a deficit in a trust fund; amending s. 216.292, F.S.; conforming provisions; adding food products as an allowable fund transfer category; authorizing transfer of positions under certain circumstances; authorizing transfers of appropriations for operations from trust funds in excess of certain amounts under certain conditions; amending s. 11.90, F.S.; establishing the chair and vice chair of the Legislative Budget Commission each year; eliminating the election of such officers; amending ss. 27.345 and 27.3451, F.S.; revising references, to conform; amending s. 45.062, F.S.; requiring certain notification and reporting with respect to executive branch settlements; saving s. 215.20(3), F.S., relating to an additional trust fund service charge, from scheduled repeal; amending s. 284.385, F.S.; requiring assigned counsel to report to the covered department on the status of casualty claims or litigation; prohibiting compromise or settlement of a casualty claim without prior notification to the covered department; amending s. 376.15, F.S.; correcting a cross reference; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1931—A bill to be entitled An act relating to retiree health insurance subsidy; amending ss. 112.363, 121.052, 121.055, and 121.071, F.S.; changing the employer contribution for the retiree health insurance subsidy; amending s. 121.571, F.S.; adding cross references; providing a finding of important state interest; providing an effective date.

—was read the second time by title.

Representative(s) Murman offered the following:

(Amendment Bar Code: 741631)

Amendment 1 (with title amendment)—On page 4, between lines 17 & 18,

insert:

Section 5. Paragraph (e) of subsection (4) of section 121.4501, Florida Statutes, is amended to read:

121.4501 Public Employee Optional Retirement Program.—

(4) PARTICIPATION; ENROLLMENT.—

(e) After the period during which an eligible employee had the choice to elect the defined benefit program or the Public Employee Optional Retirement Program, the employee shall have one opportunity, *that is, a second election* ~~at the employee's discretion~~, to choose to move from the defined benefit program to the Public Employee Optional Retirement Program or from the Public Employee Optional Retirement Program to the defined benefit program. This paragraph shall be contingent upon approval from the Internal Revenue Service for including the choice described herein within the programs offered by the Florida Retirement System.

1. If the employee chooses to move to the Public Employee Optional Retirement Program, the applicable provisions of this section shall govern the transfer.

2. If the employee chooses to move *from the Public Employee Optional Retirement Program* to the defined benefit program, the employee must transfer from his or her *optional program* ~~Public Employee Optional Retirement Program~~ account *an amount equal to the sum of the following:*

a. The value of any account balance representing the actuarial present value of the employee's accrued benefit transferred to the optional program at the time of the initial transfer;

b. The product of the participant's salary during the period of participation in the optional program times the greater of the applicable contribution rate or the applicable employer normal cost rate in effect for the Florida Retirement System defined benefit program membership class to which the member belonged during each fiscal year of such period; and

c. Interest on the sum of the amounts calculated under sub-subparagraphs a. and b. The interest rate shall be equal to the greater of the annualized rate of return earned on investments of the assets of the Florida Retirement System Trust Fund as calculated by the State Board of Administration for each fiscal year of the participation period or the Florida Retirement System actuarial valuation assumed rate of return of 8 percent ~~and from other employee moneys as necessary, a sum representing all contributions that would have been made to the defined benefit plan for that employee and the actual return that would have been earned on those contributions had they been invested in the defined benefit program~~.

If, at the time of a member's election to transfer to the defined benefit program, the member's optional program account does not contain the total amount required to be transferred to the defined benefit program, the member must pay the remaining balance. If the member's optional program account contains more than the amount required to be transferred to the defined benefit program, such additional amount shall remain in the member's optional program account.

3. The second election must be made no later than 3 years after the initial election.

And the title is amended as follows:

On page 1, lines 2-9,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to state-administered retirement programs; amending s. 112.363, 121.052, 121.055, and 121.071, F.S.; changing the employer contribution for the retiree health insurance subsidy; amending s. 121.4501, F.S.; modifying provisions relating to opportunity to transfer between the Public Employee Optional Retirement Program and the defined benefit program of the Florida Retirement System, to establish the means by which the cost of such transfers would be covered; amending s. 121.571, F.S.; adding cross references; providing a finding of important state interest; providing an effective date.

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

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

HB 1981—A bill to be entitled An act relating to tax administration; amending s. 45.031, F.S.; providing for notice of disbursement of the proceeds of a judicial sale to the Department of Revenue under certain conditions when it was performing unemployment compensation tax collection services pursuant to a contract with the Agency for Workforce Innovation; amending s. 69.041, F.S.; authorizing the department to participate in the distribution of surplus funds remaining after such disbursement when it has an interest in an unemployment compensation tax lien pursuant to such a contract; amending s. 213.053, F.S.; providing application of confidentiality and information sharing provisions to ch. 443, F.S., while the department is performing such tax collection services; amending s. 11, ch. 2000-165, Laws of Florida; specifying that the department is administering a revenue law when it provides such tax collection services and specifying the provisions of ch. 213, F.S., that apply thereto; amending s. 201.02, F.S.; providing that the documentary stamp tax on deeds and other instruments relating to real property or interests in real property does not apply to a contract to sell the residence of an employee relocating at an employer's direction, or related documents, under specified circumstances; exempting deeds and other instruments whereby property is conveyed from an electric utility to a regional transmission organization from said tax under certain circumstances; amending s. 212.02, F.S.; excluding from the definition of "lease," "let," "rental," or "license" payments made by such an organization to an electric utility under certain conditions; amending s. 212.031, F.S.; exempting property occupied or used by certain regional transmission organizations from the tax on the lease or rental of or license in real property; amending s. 212.06, F.S.; revising the definition of "fixtures" for purposes of determining if a person is improving real property under ch. 212, F.S.; providing intent; amending s. 212.08, F.S.; specifying conditions for receipt of sales tax exemptions provided to an entity under ch. 212, F.S., and subsection (7) of said section; providing for retroactive application; deleting obsolete provisions relating to registration with the WAGES Program Business Registry; providing for retroactive application; reinstating retroactively the sales tax exemption for parent-teacher organizations and parent-teacher associations; eliminating the specific sales tax exemption for organizations providing crime prevention, drunk driving prevention, and juvenile delinquency prevention services; providing for determination of a mileage apportionment factor for the first year of operation in this state of vessels, railroads, or motor vehicles engaged in interstate or foreign commerce and entitled to a partial sales tax exemption; correcting references; requiring a purchaser to file an affidavit stating the exempt nature of a purchase with the vendor instead of the department for purposes of the sales tax exemption for machinery and equipment used to produce electrical or steam energy; providing for retroactive application; revising the application of the sales tax exemption for the sale of drinking water in bottles or other containers; replacing the definitions of "section 38 property" with express definitions of "industrial machinery and equipment" and "motion picture or video equipment" and "sound recording equipment" for purposes of the sales tax exemptions therefor; providing intent and purpose; providing that provisions authorizing a partial sales tax exemption for a motor vehicle sold to a resident of another state do not require payment of tax to this state for prior assessments under certain conditions; providing for retroactive application; providing that a vehicle purchased by a nonresident corporation or partnership is not eligible for the partial sales tax exemption under certain circumstances; repealing s. 212.084(6), F.S.; eliminating provisions for temporary sales tax exemption certificates for newly organized charitable organizations; repealing s. 4, ch. 96-395, Laws of Florida, which provides for the repeal of sales tax exemptions for certain citizen support organizations and the Florida Folk Festival; providing for retroactive application; amending s. 213.285, F.S.; delaying the future repeal of the certified audits project; amending ss. 213.053 and 213.21, F.S., to conform; amending s. 213.30, F.S., relating to compensation for information relating to a violation of tax laws; specifying that said section is the only available means of obtaining compensation for information regarding another person's failure to comply with the state's tax laws; providing applicability; repealing s. 213.27(9), F.S., which authorizes the department to contract with certain vendors to develop and implement a voluntary system for sales and use tax collection and administration; creating s. 213.256, F.S., the Simplified Sales and Use Tax Administration Act; defining terms; authorizing the department's participation in the Streamlined Sales and Use Tax Agreement; providing that the agreement must require each state to abide by certain requirements in order for the department to enter into the agreement; authorizing the state to enter into multistate discussions and providing for appointment of delegates; specifying relationship of the agreement to state law; specifying the effect of the agreement with respect to persons other than member states; providing that government actions or state laws cannot be challenged on the basis of inconsistency with the agreement; providing liabilities and responsibilities of sellers, certified service providers, and providers of certified automated systems; providing for maintenance of confidentiality of certain information; providing a penalty; requiring the department to make annual recommendations to the Legislature regarding compliance with the agreement; reviving and readopting s. 215.20(3), F.S., which provides for deduction of a service charge from certain trust funds; amending s. 220.22, F.S.; eliminating the initial year's corporate tax information return for subchapter S subsidiaries and directing the department to designate by rule entities that are not required to file a corporate tax return; amending s. 443.131, F.S.; reducing the Unemployment Compensation Trust Fund balance thresholds used in computing unemployment compensation contribution rate adjustment factors; creating s. 443.1315, F.S.; providing definitions; providing for treatment of Indian tribes under the Unemployment Compensation Law; providing that Indian tribes or tribal units may elect to make payments in lieu of contributions and providing requirements with respect thereto; providing that such Indian tribe or tribal unit may be required to file a bond or deposit security at the discretion of the director of the Agency for Workforce Innovation; providing effect of failure of such tribe or unit to make required payments; providing requirements for notices; providing responsibility

for certain extended benefits; providing for rules; providing for retroactive application; repealing s. 624.509(10), F.S., which provides an exemption from the insurance premium tax for insurers who write monoline flood insurance policies not subsidized by the Federal Government; providing effective dates.

—was read the second time by title.

Representative(s) Fasano offered the following:

(Amendment Bar Code: 510063)

Amendment 1 (with title amendment)—On page 11, between lines 20-21

insert:

Section 6. *It is the intent of the Legislature that s. 201.02(8), Florida Statutes, as created by this act, confirms and clarifies existing law.*

And renumber subsequent sections.

And the title is amended as follows:

On page 1, line 31

after the semicolon insert: providing intent;

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

Representative(s) Fasano offered the following:

(Amendment Bar Code: 283275)

Amendment 2—On page 71, lines 22-31
remove all of said lines:

and insert in lieu thereof:

(3) *Notwithstanding the provisions of any other law, this section is the sole means by which any person may seek or obtain any moneys as the result of, in relation to, or founded upon the failure by another person to comply with tax laws of this state, and a person's use of any other law to seek or obtain moneys for such failure is in derogation of this statute and conflicts with the state's duty to administer the tax laws.*

Section 20. *The amendment to Section 213.30, Florida Statutes, made by this act applies to any case in litigation or under seal on the effective date of this act.*
And renumber subsequent sections.

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

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

HB 1909—A bill to be entitled An act relating to trust funds; creating s. 287.103, F.S.; creating the Purchasing and Transportation Support Trust Fund, to be administered by the Department of Management Services; providing for sources of funds and purposes; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1941—A bill to be entitled An act relating to trust funds; terminating specified trust funds within the Department of Management Services and the Agency for Workforce Innovation; providing for disposition of balances in and revenues of such trust funds; declaring the findings of the Legislature that specified trust funds within the Department of Management Services are exempt from the termination requirements of s. 19(f), Art. III of the State Constitution; renaming specified trust funds within the Department of Management Services and the Department of Education; amending s. 272.161, F.S.; providing for the deposit of fees from rental of reserved parking spaces into the Facilities Management Trust Fund, to conform; amending s. 284.01, F.S.; providing for rental value insurance for loss of income from certain buildings operated and maintained by the Department of Management Services from the Facilities Management Trust Fund, to conform; amending s. 235.2195, F.S.; providing for deposit of proceeds from bond sales under the 1997 School Capital Outlay Bond Program into the Lottery Capital Outlay and Debt Service Trust Fund; amending s. 215.196, F.S.; providing for deposit of proceeds from fixed capital outlay management assessments into the Facilities Management Trust Fund, to conform; amending s. 287.16, F.S.; providing for deposit of proceeds from fees charged to state agencies to which aircraft or motor vehicles are furnished into the Purchasing and Transportation Support Trust Fund; amending s. 287.161, F.S.; providing for deposit of proceeds from fees collected for use of the executive aircraft pool into the Purchasing and Transportation Support Trust Fund, to conform; amending s. 217.07, F.S.; providing for deposit of federal surplus property assets into the Purchasing and Transportation Support Trust Fund, to conform; amending s. 287.042, F.S.; providing for deposit of proceeds from fees collected for use of electronic information services of the Department of Management Services and for deposit of funds from certain governmental agencies pursuant to joint purchasing agreements into the Purchasing and Transportation Support Trust Fund, to conform; amending s. 287.1345, F.S.; providing for deposit of proceeds from the surcharge on users of state term contracts into the Purchasing and Transportation Support Trust Fund, to conform; expanding uses of the surcharge proceeds; amending s. 215.22, F.S.; providing for the Technology Enterprise Trust Fund to be exempt from the general revenue service charge, to conform; amending s. 216.292, F.S.; providing for billings for state communications system services to be transferred to the Technology Enterprise Trust Fund, to conform; repealing s. 282.20(6), F.S., relating to the Technology Resource Center's reserve account of its working capital trust fund, to conform; repealing s. 110.151(7), F.S., relating to reestablishment of the State Employee Child Care Revolving Trust Fund, to conform; providing for contingent effect of certain provisions; providing effective dates.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 1633—A bill to be entitled An act relating to student assessment; amending s. 229.57, F.S.; revising provisions relating to the designation of school performance grade categories; revising the basis for such designations; revising provisions relating to statewide annual assessments; revising provisions relating to the use of a statistical system for assessment; requiring the Commissioner of Education to establish a schedule for administration of assessments; reenacting ss. 230.23(16)(c), 231.085(4), 231.17(15), 231.29(3)(a), and 231.2905(4), F.S., relating to supplements for teachers based on assessment of student learning gains, use of student assessment data, comparison of routes to a professional certificate, assessment procedures for school personnel, and the School Recognition Program, to incorporate the amendment to s. 229.57, F.S., in references thereto; providing an effective date.

—was read the second time by title.

Representative(s) Wiles offered the following:

(Amendment Bar Code: 041959)

Amendment 1 (with title amendment)—On page 10 between lines 19-20,

insert:

Section 3. *(1) The serious and often adverse consequences resulting from the sole reliance on the Florida Comprehensive Assessment Test (FCAT) have increasingly resulted in questions and significant concerns by students, parents, teachers, and school administrators about how to ensure that the test is used appropriately and in a manner that is fair. Currently, there is no peer-reviewed, research-based determination that the FCAT is a reliable and valid instrument suitable to fairly assess students, schools, and teachers. Therefore, the Office of Program Policy Analysis and Government Accountability (OPPAGA), in consultation with the Department of Education, shall conduct a nationwide search for suitable independent research organizations to submit proposals for*

review of the FCAT. Based on the proposals and additional background information, OPPAGA shall recommend an organization or organizations to the Speaker of the House of Representatives, the President of the Senate, and the majority and minority leaders of each house of the Legislature. If no objections are made to the recommendation within 14 calendar days, OPPAGA shall proceed to contract with the recommended organization or organizations for the FCAT review.

(2) The FCAT review shall be guided by the principles and findings reported by the National Academy of Sciences on high stakes testing in 1999. The review shall include, but is not limited to, whether the FCAT is aligned adequately with the Sunshine State Standards; whether the test accurately and fairly measures what students have learned independent of their socioeconomic background and readiness for the subject matter being studied; whether the test can accurately reflect annual student learning gains within a school; and whether the test can accurately evaluate teacher performance.

(3) The Office of Program Policy Analysis and Government Accountability shall provide the Speaker of the House of Representatives, the President of the Senate, and the majority and minority leaders of each house of the Legislature with quarterly updates and a final report before March 1, 2002.

(4) The independent review of the FCAT shall be funded by the Office of Program Analysis and Government Accountability within its appropriated funds for fiscal year 2001-2002.

And the title is amended as follows:

On page 1, line 21, after the semicolon

insert: requiring an independent review of the Florida Comprehensive Assessment Test;

Rep. Wiles moved the adoption of the amendment.

REPRESENTATIVE MAYGARDEN IN THE CHAIR

Representative(s) Attkisson offered the following:

(Amendment Bar Code: 813281)

Substitute Amendment 1—On page 10, between lines 19-20 of the bill

insert:

Section 3. *1. The department, in consultation with the Office of Program Policy Analysis and Government Accountability, and other sources as appropriate, shall participate in the monitoring and reporting of the implementation of the methodology that will be used to identify student learning gains.*

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

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

HB 1811—A bill to be entitled An act relating to information technology; amending s. 20.22, F.S.; creating the State Technology Office within the Department of Management Services; requiring the office to operate and manage the Technology Resource Center; amending s. 110.205, F.S.; providing that specified officers within the State Technology Office are exempt from career service; providing that the office shall set the salaries and benefits for such officers in accordance with the rules of the Senior Management Service; providing for the personal secretary to specified officers within the State Technology Office to be exempt from career service; providing for all managers, supervisors, and confidential employees of the State Technology Office to be exempt from career service; providing that the office shall set the salaries and benefits for those positions in accordance with the rules of the Selected Exempt Service; amending s. 186.022, F.S.; revising the entities required to annually develop and submit an information technology strategic plan; providing for the State Technology Office to administer and approve development of information technology strategic plans; amending s. 216.013, F.S.; revising provisions relating to the review of long-range program plans for executive agencies by the Executive Office of the Governor; providing that the Executive Office of the Governor shall consider the findings of the State Technology Office with respect to the State Annual Report on Enterprise Resource Planning and Management and statewide policies adopted by the State Technology Office; amending s. 216.0446, F.S., relating to review of agency information resources management needs; eliminating the Technology Review Workgroup; providing for assumption of the duties of the Technology Review Workgroup by the State Technology Office; requiring the reporting of specified information to the Executive Office of the Governor; providing powers and duties of the State Technology Office; amending s. 216.181, F.S., relating to approved budgets for operations and fixed capital outlay; providing requirements with respect to an amendment to the original approved operating budget for specified information technology projects or initiatives; amending s. 216.235, F.S.; transferring specified responsibilities with respect to the Innovation Investment Program Act from the Department of Management Services to the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor; revising the membership of the State Innovation Committee; amending s. 216.292, F.S.; authorizing state agencies to transfer positions and appropriations for fiscal year 2001-2002 for the purpose of consolidating information technology resources to the State Technology Office; amending s. 282.005, F.S.; revising legislative findings and intent with respect to the Information Resources Management Act of 1997; providing that the State Technology Office has primary responsibility and accountability for information technology matters within the state; amending and renumbering s. 282.303, F.S.; revising definitions; defining "information technology"; amending s. 282.102, F.S.; revising powers and duties of the State Technology Office; providing that the office shall be a separate budget entity within the Department of Management Services; providing that the Chief Information Officer shall be an agency head; authorizing the office to perform, in consultation with a state agency, the enterprise resource planning and management for the agency; authorizing the office to apply for, receive, and hold specified patents, copyrights, trademarks, and service marks; authorizing the office to purchase, lease, hold, sell, transfer, license, and dispose of specified real, personal, and intellectual property; providing for deposit of specified fees in the Law Enforcement Radio Operating Trust Fund; amending s. 282.103, F.S., to conform; authorizing the State Technology Office to grant an agency exemption from required use of specified SUNCOM Network services; amending s. 282.104, F.S., to conform; amending s. 282.105, F.S., to conform; amending s. 282.106, F.S., to conform; amending s. 282.1095, F.S., relating to the state agency law enforcement radio system; providing conforming amendments; renaming the State Agency Law Enforcement Radio System Trust Fund as the Law Enforcement Radio Operating Trust Fund; requiring the office to establish policies, procedures, and standards for a comprehensive plan for a statewide radio communications system; eliminating provisions relating to establishment and funding of specified positions; amending s. 282.111, F.S., to conform; amending s. 282.20, F.S., relating to the Technology Resource Center; providing conforming amendments; removing provisions relating to the acceptance of new customers by the center; authorizing the center to spend funds in the reserve account of the Technology Enterprise Operating Trust Fund; amending s. 282.21, F.S., to conform; amending s. 282.22, F.S.; revising terminology; removing specified restrictions on the office's authority to sell services; creating s. 282.23, F.S.; authorizing the State Technology Office, in consultation with the Department of Management Services, to establish a State Strategic Information Technology Alliance; providing purposes of the alliance; providing for the establishment of policies and procedures; repealing s. 282.3041, F.S., which provides that the head of each state agency is responsible and accountable for enterprise resource planning and management within the agency; amending s. 282.3055, F.S.; authorizing the Chief Information Officer to appoint or contract for Agency Chief Information Officers to assist in carrying out enterprise resource planning and management responsibilities; amending s. 282.3063, F.S.; requiring Agency Chief Information Officers to prepare and submit an Agency Annual Enterprise Resource Planning and Management Report; amending s. 282.315, F.S.; renaming the Chief

Information Officers Council as the Agency Chief Information Officers Council; revising the voting membership of the council; amending s. 282.318, F.S., to conform; amending s. 282.322, F.S.; eliminating provisions relating to the special monitoring process for designated information resources management projects; requiring the Enterprise Project Management Office of the State Technology Office to report on, monitor, and assess risk levels of specified high-risk technology projects; requiring certain state agencies to transfer described positions and administrative support personnel to the State Technology Office by specified dates; providing limits on the number of positions and administrative support personnel transferred; providing that the State Technology Office and the relevant agencies are authorized to request subsequent transfers of positions, subject to approval by the Legislative Budget Commission; providing requirements with respect to transferred resources which were dedicated to a federally funded system; providing appropriations; repealing s. 282.404, F.S.; abolishing the Florida Geographic Information Board within the State Technology Office; providing an effective date.

—was read the second time by title.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 311365)

Amendment 1—On page 30, line 10,
remove from the bill: all of said line

and insert in lieu thereof: *(2) To adopt rules implementing policies and procedures providing best*

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 941571)

Amendment 2—On page 38, line 14
remove from the bill: all of said line

and insert in lieu thereof: The State Agency Law Enforcement Radio System Trust

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 912577)

Amendment 3—On page 45, lines 25-26,
remove from the bill: all of said line

and insert in lieu thereof: *accordance with competitive procurement provisions of chapter 287.*

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 143997)

Amendment 4—On page 45, line 28
remove from the bill: all of said line

and insert in lieu thereof: *the Department of Management Services, shall adopt rules implementing*

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 150335)

Amendment 5 (with title amendment)—On page 52, between lines 21 and 22, of the bill

insert:

Section 28. Paragraph (f) of subsection (2) of section 216.163, Florida Statutes, is amended to read:

216.163 Governor's recommended budget; form and content; declaration of collective bargaining impasses.—

(2) The Governor's recommended budget shall also include:

(f) The Governor's recommendations for *high-risk* ~~critical~~ information *technology* ~~resource management~~ projects which should be subject to ~~special~~ monitoring under s. 282.322. These recommendations shall include proviso language which specifies whether funds are specifically provided to contract for project monitoring, or whether the Auditor General will conduct such project monitoring. When funds are recommended for contracting with a project monitor, such funds may equal 1 percent to 5 percent of the project's estimated total costs. These funds shall be specifically appropriated and nonrecurring.

Section 29. Paragraph (b) of subsection (1) and paragraph (o) of subsection (3) of section 119.07, Florida Statutes, are amended to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(1)

(b) If the nature or volume of public records requested to be inspected, examined, or copied pursuant to this subsection is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or both, the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required, or both. "Information technology resources" *means data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training* ~~shall have the same meaning as in s. 282.303(12)~~.

(3)

(o) Data processing software obtained by an agency under a licensing agreement which prohibits its disclosure and which software is a trade secret, as defined in s. 812.081, and agency-produced data processing software which is sensitive are exempt from the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution. The designation of agency-produced software as sensitive shall not prohibit an agency head from sharing or exchanging such software with another public agency. As used in this paragraph:

1. "Data processing software" *means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs* ~~has the same meaning as in s. 282.303(7)~~.

2. "Sensitive" means only those portions of data processing software, including the specifications and documentation, used to:

a. Collect, process, store, and retrieve information which is exempt from the provisions of subsection (1);

b. Collect, process, store, and retrieve financial management information of the agency, such as payroll and accounting records; or

c. Control and direct access authorizations and security measures for automated systems.

Section 30. Paragraph (b) of subsection (1) of section 119.083, Florida Statutes, is amended to read:

119.083 Definitions; copyright of data processing software created by governmental agencies; fees; prohibited contracts.—

(1) As used in this section:

(b) "Data processing software" has the same meaning as in s. *119.07(3)(o)* ~~282.303~~.

And the title is amended as follows:

On page 5, line 26,

after the semicolon, insert: amending s. 216.163, F.S.; providing that the Governor's recommended budget shall include recommendations for

specified high-risk information technology projects; amending s. 119.07, F.S.; defining "information technology resources" and "data processing software"; amending ss. 119.083, F.S.; correcting cross references;

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 953207)

Amendment 6 (with title amendment)—On page 16, line 25, through page 18, line 21,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 5. Section 216.0446, Florida Statutes, is amended to read:

216.0446 Review of information resources management needs.—

(1) There is created within the Legislature the Technology Review Workgroup. The workgroup *and the State Technology Office* shall *independently* review and make recommendations with respect to the portion of agencies' long-range program plans which pertains to information resources management needs and with respect to agencies' legislative budget requests for information *technology and related* resources ~~management~~. The Technology Review Workgroup shall *report such recommendations, together with the findings and conclusions on which such recommendations are based,*~~be responsible~~ to the chairs of the legislative appropriations committees. *The State Technology Office shall report such recommendations, together with the findings and conclusions on which such recommendations are based, to the Executive Office of the Governor and to the chairs of the legislative appropriations committees.*

(2) In addition to its primary duty specified in subsection (1), the Technology Review Workgroup shall have powers and duties that include, but are not limited to, the following:

(a) To evaluate the information resource management needs identified in the agency long-range program plans for consistency with the State Annual Report on *Enterprise Resource Planning and* ~~Information Resources~~ Management and statewide policies recommended by the State Technology *Office* ~~Council~~, and make recommendations to the chairs of the legislative appropriations committees.

(b) To review and make recommendations to the chairs of the legislative appropriations committees on proposed budget amendments and agency transfers associated with information *technology* ~~resources management~~ initiatives or projects that involve more than one agency, that have an outcome that impacts another agency, ~~or~~ that exceed $500,000 in total cost over a 1-year period*, or that are requested by the chairs of the legislative budget committees to be reviewed*.

Section 6. Subsection (5)of section 216.181, Florida Statutes, is amended to read:

216.181 Approved budgets for operations and fixed capital outlay.—

(5) An amendment *to the original operating budget* for an information *technology* ~~resources management~~ project or initiative that involves more than one agency, has an outcome that impacts another agency, or exceeds $500,000 in total cost over a 1-year period, except for those projects that are a continuation of hardware or software maintenance or software licensing agreements, or that are for desktop replacement that is similar to the technology currently in use must be reviewed by the Technology Review Workgroup pursuant to s. 216.0466 and approved by the Executive Office of the Governor for the executive branch or by the Chief Justice for the judicial branch, and shall be subject to the notice and review procedures set forth in s. 216.177.

And on page 50, line 24, through page 52, line 21,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 27. 282.322 Special monitoring process for designated information resources management projects.—

*(1)*For each information resources management project which is designated for special monitoring in the General Appropriations Act, with a proviso requiring a contract with a project monitor, the Technology Review Workgroup established pursuant to s. 216.0446, in consultation with each affected agency, shall be responsible for contracting with the project monitor. Upon contract award, funds equal to the contract amount shall be transferred to the Technology Review Workgroup upon request and subsequent approval of a budget amendment pursuant to s. 216.292. With the concurrence of the Legislative Auditing Committee, the office of the Auditor General shall be the project monitor for other projects designated for special monitoring. However, nothing in this section precludes the Auditor General from conducting such monitoring on any project designated for special monitoring. In addition to monitoring and reporting on significant communications between a contracting agency and the appropriate federal authorities, the project monitoring process shall consist of evaluating each major stage of the designated project to determine whether the deliverables have been satisfied and to assess the level of risks associated with proceeding to the next stage of the project. The major stages of each designated project shall be determined based on the agency's information systems development methodology. Within 20 days after an agency has completed a major stage of its designated project or at least 90 days, the project monitor shall issue a written report, including the findings and recommendations for correcting deficiencies, to the agency head, for review and comment. Within 20 days after receipt of the project monitor's report, the agency head shall submit a written statement of explanation or rebuttal concerning the findings and recommendations of the project monitor, including any corrective action to be taken by the agency. The project monitor shall include the agency's statement in its final report, which shall be forwarded, within 7 days after receipt of the agency's statement, to the agency head, the inspector general's office of the agency, the Executive Office of the Governor, the appropriations committees of the Legislature, the Joint Legislative Auditing Committee, the Technology Review Workgroup, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability. The Auditor General shall also receive a copy of the project monitor's report for those projects in which the Auditor General is not the project monitor.

(2) The Enterprise Project Management Office of the State Technology Office shall report any information technology projects the office identifies as high-risk to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the appropriations committees. Within the limits of current appropriations, the Enterprise Project Management Office shall monitor and report on such high-risk information technology projects, and assess the levels of risks associated with proceeding to the next stage of the project.

And the title is amended as follows:

On page 2, lines 9 through 21
remove from the title of the bill: all of said lines

and insert in lieu thereof: needs; providing for the duties of the State Technology Office; requiring the reporting of specified information to the Executive Office of the Governor and to the chairs of the legislative appropriations committees; amending s. 216.181, F.S.; relating to approved budgets for operations and fixed capital outlay;

and on page 5, lines through 19-22
remove from the title of the bill: all of said lines

and insert in lieu thereof: 282.322, F.S.; requiring the Enterprise Project

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 394687)

Amendment 1 to Amendment 6 (with title amendment)—On page 1, line 15, through page 5, line 13
remove from the amendment: all of said lines

and insert in lieu thereof:

And the title is amended as follows:

On page 5, line 18, through page 6, line 2, of the amendment remove: all of said lines

and insert in lieu thereof:

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 810483)

Amendment 7 (with title amendment)—On page 54, between lines 8&9 of the bill

insert:

Section 30. Subsection (6) of Section 11.90, Florida Statutes, is created to read:

(6)The Commission shall review information resource management needs identified in agency long-range program plans for consistency with the State Annual Report on Enterprise Resource Planning and Management and statewide policies adopted by the State Technology Office. The Commission shall also review all proposed budget amendments associated with information technology.

And the title is amended as follows:

On page 6, line 10

after the semicolon, insert: provides for Legislative Budgeting Commission review of certain agency plans, State Technology Office policies, and certain budget amendments;

On motion by Rep. Hart, the committee and council amendments failed of adoption *en bloc*.

Representative(s) Hart offered the following:

(Amendment Bar Code: 820279)

Amendment 8 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (b) of subsection (2) and subsection (3) of section 20.22, Florida Statutes, are amended to read:

20.22 Department of Management Services.—There is created a Department of Management Services.

(2) The following divisions and programs within the Department of Management Services are established:

(b) *State Technology Office* ~~Information Technology Program~~.

(3) The *State Technology Office* ~~Information Technology Program~~ shall operate and manage the Technology Resource Center.

Section 2. Subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph *(i)* ~~(h)~~, shall be exempted if the position reports to a position in the career service:

(a) All officers of the executive branch elected by popular vote and persons appointed to fill vacancies in such offices. Unless otherwise fixed by law, the salary and benefits for any such officer who serves as the head of a department shall be set by the department in accordance with the rules of the Senior Management Service.

(b) All members, officers, and employees of the legislative branch, except for the members, officers, and employees of the Florida Public Service Commission.

(c) All members, officers, and employees of the judicial branch.

(d) All officers and employees of the State University System and the Correctional Education Program within the Department of Corrections, and the academic personnel and academic administrative personnel of the Florida School for the Deaf and the Blind. In accordance with the provisions of chapter 242, the salaries for academic personnel and academic administrative personnel of the Florida School for the Deaf and the Blind shall be set by the board of trustees for the school, subject only to the approval of the State Board of Education. The salaries for all instructional personnel and all administrative and noninstructional personnel of the Correctional Education Program shall be set by the Department of Corrections, subject to the approval of the Department of Management Services.

(e) The Chief Information Officer, deputy chief information officers, chief technology officers, and deputy chief technology officers in the State Technology Office. Unless otherwise fixed by law, the State Technology Office shall set the salary and benefits of these positions in accordance with the rules of the Senior Management Service.

(f)~~(e)~~ All members of state boards and commissions, however selected. Unless otherwise fixed by law, the salary and benefits for any full-time board or commission member shall be set by the department in accordance with the rules of the Senior Management Service.

(g)~~(f)~~ Judges, referees, and receivers.

(h)~~(g)~~ Patients or inmates in state institutions.

(i)~~(h)~~ All positions which are established for a limited period of time for the purpose of conducting a special study, project, or investigation and any person paid from an other-personal-services appropriation. Unless otherwise fixed by law, the salaries for such positions and persons shall be set in accordance with rules established by the employing agency for other-personal-services payments pursuant to s. 110.131.

(j)~~(i)~~ The appointed secretaries, assistant secretaries, deputy secretaries, and deputy assistant secretaries of all departments; the executive directors, assistant executive directors, deputy executive directors, and deputy assistant executive directors of all departments; and the directors of all divisions and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, program directors, assistant program directors, district administrators, deputy district administrators, the Director of Central Operations Services of the Department of Children and Family Services, and the State Transportation Planner, State Highway Engineer, State Public Transportation Administrator, district secretaries, district directors of planning and programming, production, and operations, and the managers of the offices specified in s. 20.23(3)(d)2., of the Department of Transportation. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Senior Management Service.

(k)~~(j)~~ The personal secretary to the incumbent of each position exempted in *paragraphs* ~~paragraph~~ (a), *(e), and (j).* ~~and to each appointed secretary, assistant secretary, deputy secretary, executive director, assistant executive director, and deputy executive director of each department under paragraph (i).~~ Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Selected Exempt Service.

(l)~~(k)~~ All officers and employees in the office of the Governor, including all employees at the Governor's mansion, and employees within each separate budget entity, as defined in chapter 216, assigned to the Governor. Unless otherwise fixed by law, the salary and benefits of these positions shall be set by the department as follows:

1. The chief of staff, the assistant or deputy chief of staff, general counsel, Director of Legislative Affairs, chief inspector general, Director of Cabinet Affairs, Director of Press Relations, Director of Planning and Budgeting, director of administration, director of state-federal relations, Director of Appointments, Director of External Affairs, Deputy General

Counsel, Governor's Liaison for Community Development, Chief of Staff for the Lieutenant Governor, Deputy Director of Planning and Budgeting, policy coordinators, and the director of each separate budget entity shall have their salaries and benefits established by the department in accordance with the rules of the Senior Management Service.

2. The salaries and benefits of positions not established in sub-subparagraph a. shall be set by the employing agency. Salaries and benefits of employees whose professional training is comparable to that of licensed professionals under paragraph *(r)* ~~(q)~~, or whose administrative responsibility is comparable to a bureau chief shall be set by the Selected Exempt Service. The department shall make the comparability determinations. Other employees shall have benefits set comparable to legislative staff, except leave shall be comparable to career service as if career service employees.

(m)~~(l)~~ All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, positions in the Department of Health, the Department of Children and Family Services, and the Department of Corrections that are assigned primary duties of serving as the superintendent or assistant superintendent, or warden or assistant warden, of an institution; positions in the Department of Corrections that are assigned primary duties of serving as the circuit administrator or deputy circuit administrator; positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices as defined in s. 20.23(3)(d)3. and (4)(d); positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator; those positions described in s. 20.171 as included in the Senior Management Service; and positions in the Department of Health that are assigned the duties of Environmental Administrator, Assistant County Health Department Director, and County Health Department Financial Administrator. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

(n)~~(m)~~1.a. In addition to those positions exempted by other paragraphs of this subsection, each department head may designate a maximum of 20 policymaking or managerial positions, as defined by the department and approved by the Administration Commission, as being exempt from the Career Service System. Career service employees who occupy a position designated as a position in the Selected Exempt Service under this paragraph shall have the right to remain in the Career Service System by opting to serve in a position not exempted by the employing agency. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Selected Exempt Service; provided, however, that if the agency head determines that the general counsel, chief Cabinet aide, public information administrator or comparable position for a Cabinet officer, inspector general, or legislative affairs director has both policymaking and managerial responsibilities and if the department determines that any such position has both policymaking and managerial responsibilities, the salary and benefits for each such position shall be established by the department in accordance with the rules of the Senior Management Service.

b. In addition, each department may designate one additional position in the Senior Management Service if that position reports directly to the agency head or to a position in the Senior Management Service and if any additional costs are absorbed from the existing budget of that department.

2. If otherwise exempt, employees of the Public Employees Relations Commission, the Commission on Human Relations, and the Unemployment Appeals Commission, upon the certification of their respective commission heads, may be provided for under this paragraph as members of the Senior Management Service, if otherwise qualified. However, the deputy general counsels of the Public Employees Relations Commission shall be compensated as members of the Selected Exempt Service.

(o)~~(n)~~ The executive director, deputy executive director, general counsel, official reporters, and division directors within the Public Service Commission and the personal secretary and personal assistant to each member of the Public Service Commission. Unless otherwise fixed by law, the salary and benefits of the executive director, deputy executive directors, general counsel, Director of Administration, Director of Appeals, Director of Auditing and Financial Analysis, Director of Communications, Director of Consumer Affairs, Director of Electric and Gas, Director of Information Processing, Director of Legal Services, Director of Records and Reporting, Director of Research, and Director of Water and Sewer shall be set by the department in accordance with the rules of the Senior Management Service. The salary and benefits of the personal secretary and the personal assistant of each member of the commission and the official reporters shall be set by the department in accordance with the rules of the Selected Exempt Service, notwithstanding any salary limitations imposed by law for the official reporters.

(p)~~(o)~~1. All military personnel of the Department of Military Affairs. Unless otherwise fixed by law, the salary and benefits for such military personnel shall be set by the Department of Military Affairs in accordance with the appropriate military pay schedule.

2. The military police chiefs, military police officers, firefighter trainers, firefighter-rescuers, and electronic security system technicians shall have salary and benefits the same as career service employees.

(q)~~(p)~~ The staff directors, assistant staff directors, district program managers, district program coordinators, district subdistrict administrators, district administrative services directors, district attorneys, and the Deputy Director of Central Operations Services of the Department of Children and Family Services and the county health department directors and county health department administrators of the Department of Health. Unless otherwise fixed by law, the department shall establish the salary range and benefits for these positions in accordance with the rules of the Selected Exempt Service.

(r)~~(q)~~ All positions not otherwise exempt under this subsection which require as a prerequisite to employment: licensure as a physician pursuant to chapter 458, licensure as an osteopathic physician pursuant to chapter 459, licensure as a chiropractic physician pursuant to chapter 460, including those positions which are occupied by employees who are exempted from licensure pursuant to s. 409.352; licensure as an engineer pursuant to chapter 471, which are supervisory positions except for such positions in the Department of Transportation; or for 12 calendar months, which require as a prerequisite to employment that the employee have received the degree of Bachelor of Laws or Juris Doctor from a law school accredited by the American Bar Association and thereafter membership in The Florida Bar, except for any attorney who serves as an administrative law judge pursuant to s. 120.65 or for hearings conducted pursuant to s. 120.57(1)(a). Unless otherwise fixed by law, the department shall set the salary and benefits for these positions in accordance with the rules established for the Selected Exempt Service.

(s)~~(r)~~ The statewide prosecutor in charge of the Office of Statewide Prosecution of the Department of Legal Affairs and all employees in the office. The Department of Legal Affairs shall set the salary of these positions.

(t)~~(s)~~ The executive director of each board or commission established within the Department of Business and Professional Regulation or the Department of Health. Unless otherwise fixed by law, the department shall establish the salary and benefits for these positions in accordance with the rules established for the Selected Exempt Service.

(u)~~(t)~~ All officers and employees of the State Board of Administration. The State Board of Administration shall set the salaries and benefits of these positions.

(v)~~(u)~~ Positions which are leased pursuant to a state employee lease agreement expressly authorized by the Legislature pursuant to s. 110.191.

(w) All managers, supervisors, and confidential employees of the State Technology Office. The State Technology Office shall set the salaries and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

Section 3. Section 186.022, Florida Statutes, is amended to read:

186.022 Information *technology* ~~resource~~ strategic plans.—By June 1 of each year, ~~the Geographic Information Board,~~ the Financial Management Information Board, the Criminal and Juvenile Justice Information Systems Council, and the Health Information Systems Council shall each develop and submit *to the State Technology Office* an information *technology* ~~resource~~ strategic plan ~~to the Executive Office of the Governor~~ in a form and manner prescribed in written instructions *from* ~~prepared by~~ the *State Technology Office* ~~Executive Office of the Governor~~ in consultation with *the Executive Office of the Governor and* the legislative appropriations committees. The *State Technology Office* ~~Executive Office of the Governor~~ shall review *each such* ~~the~~ strategic plan and ~~may provide comments within 30 days. In its review, the Executive Office of the Governor~~ shall *determine* ~~consider all comments and findings of the Technology Review Workgroup as to~~ whether *each such* ~~the~~ plan is consistent with the State Annual Report on *Enterprise Resource Planning and* ~~Information Resources~~ Management and statewide policies *adopted by the State Technology Office, and by July 1 of each year shall develop and transmit to each such board and council a written expression of its findings, conclusions, and required changes, if any, with respect to each such strategic plan* ~~recommended by the State Technology Council~~. If *any change to any such strategic plan is* ~~revisions are~~ required, *each affected board* ~~boards~~ and *council shall revise its strategic plan to the extent necessary to incorporate such required changes* ~~councils have 30 days to incorporate those revisions~~ and *shall resubmit its strategic* ~~return the~~ plan to the *State Technology Office for final approval and acceptance* ~~Executive Office of the Governor~~.

Section 4. Subsection (4) of section 216.013, Florida Statutes, is amended to read:

216.013 Long-range program plan.—

(4) The Executive Office of the Governor shall review the long-range program plans for executive agencies to ensure that they are consistent with the state's goals and objectives and other requirements as specified in the written instructions and that they provide the framework and context for the agency's budget request. In its review, the Executive Office of the Governor shall consider the findings of the *State Technology Office* ~~Technology Review Workgroup~~ as to the consistency of the information technology portion of long-range program plans with the State Annual Report on *Enterprise Resource Planning and* ~~Information Resources~~ Management and statewide policies *adopted* ~~recommended~~ by the State Technology *Office* ~~Council~~ and the state's plan for facility needs pursuant to s. 216.0158. Based on the results of the review, the Executive Office of the Governor may require an agency to revise the plan.

Section 5. Section 216.0446, Florida Statutes, is amended to read:

216.0446 Review of information resources management needs.—

(1) ~~There is created within the Legislature the Technology Review Workgroup.~~ The *State Technology Office* ~~workgroup~~ shall review and make recommendations with respect to the portion of agencies' long-range program plans which pertains to information resources management needs and with respect to agencies' legislative budget requests for information *technology and related* resources ~~management~~. The *State Technology Office* ~~Technology Review Workgroup~~ shall *report such recommendations, together with the findings and conclusions on which such recommendations are based,* ~~be responsible~~ to the *Executive Office of the Governor and the* chairs of the legislative appropriations committees.

(2) In addition to *the powers and duties otherwise provided by law, the State Technology Office* ~~its primary duty specified in subsection (1), the Technology Review Workgroup~~ shall have powers and duties that include, but are not limited to, the following:

(a) To evaluate the information resource management needs identified in the agency long-range program plans for consistency with the State Annual Report on *Enterprise Resource Planning and* ~~Information Resources~~ Management and statewide policies *adopted* ~~recommended~~ by the State Technology *Office* ~~Council~~, and make recommendations to *the Executive Office of the Governor and* the chairs of the legislative appropriations committees.

(b) To review and make recommendations *to the Executive Office of the Governor and* ~~to~~ the chairs of the legislative appropriations committees on proposed budget amendments ~~and agency transfers~~ associated with information *technology* ~~resources management~~ initiatives ~~or projects that involve more than one agency, that have an outcome that impacts another agency, or that exceed $500,000 in total cost over a 1-year period~~.

Section 6. Subsection (5) of section 216.181, Florida Statutes, is amended to read:

216.181 Approved budgets for operations and fixed capital outlay.—

(5) An amendment *to the original approved operating budget* for an information *technology project or initiative which requires review as provided in s. 216.181* ~~resources management project or initiative that involves more than one agency, has an outcome that impacts another agency, or exceeds $500,000 in total cost over a 1-year period, except for those projects that are a continuation of hardware or software maintenance or software licensing agreements, or that are for desktop replacement that is similar to the technology currently in use~~ must be reviewed by the *State Technology Office* ~~Technology Review Workgroup~~ pursuant to s. 216.0466*. This excludes items submitted by the State Technology Office for review and approval according to the provisions of this section.* ~~and approved by the Executive Office of the Governor for the executive branch or by the Chief Justice for the judicial branch, and shall be subject to the notice and review procedures set forth in s. 216.177.~~

Section 7. Section 216.235, Florida Statutes, is amended to read:

216.235 Innovation Investment Program; intent; definitions; composition and responsibilities of State Innovation Committee; responsibilities of the *Office of Tourism, Trade, and Economic Development* ~~Department of Management Services, the Information Resource Commission,~~ and the review board; procedures for innovative project submission, review, evaluation, and approval; criteria to be considered.—

(1) This section shall be cited as the "Innovation Investment Program Act."

(2) The Legislature finds that each state agency should be encouraged to pursue innovative investment projects which demonstrate a novel, creative, and entrepreneurial approach to conducting the agency's normal business processes; effectuate a significant change in the accomplishment of the agency's activities; address an important problem of public concern; and have the potential of being replicated by other state agencies. The Legislature further finds that investment in innovation can produce longer-term savings and that funds for such investment should be available to assist agencies in investing in innovations that produce a cost savings to the state or improve the quality of services delivered. The Legislature also finds that any eligible savings realized as a result of investment in innovation should be available for future investment in innovation.

(3) For purposes of this section:

(a) "Agency" means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of the executive branch.

(b) "Commission" means the Information Resource Commission.

(c) "Committee" means the State Innovation Committee.

(d) *"Office" means the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor.* ~~"Department" means the Department of Management Services.~~

(e) "Review board" means a nonpartisan board composed of private citizens and public employees who evaluate the projects and make funding recommendations to the committee.

(4) There is hereby created the State Innovation Committee, which shall have final approval authority as to which innovative investment projects submitted under this section shall be funded. Such committee shall be comprised of *seven* ~~five~~ members. Appointed members shall serve terms of 1 year and may be reappointed. The committee shall include:

(a) The Lieutenant Governor.

(b) The director of the Governor's Office of Planning and Budgeting.

(c) The Chief Information Officer in the State Technology Office.

(d)~~(c)~~ The Comptroller.

(e)~~(d)~~ One representative of the private sector appointed by the Commission on Government Accountability to the People.

(f)~~(e)~~ *The director of the Office of Tourism, Trade, and Economic Development.* ~~One representative appointed by Enterprise Florida, Inc.~~

(g) The Chair of IT Florida.com, Inc.

~~The Secretary of Management Services shall serve as an alternate in the event a member is unable to attend the committee meeting.~~

(5) Agencies shall submit proposed innovative investment projects to the *Office of Tourism, Trade, and Economic Development* ~~department~~ by a date established and in the format prescribed by the *office* ~~department~~. Such innovative investment project proposals shall include, but not be limited to:

(a) The identification of a specific innovative investment project.

(b) The name of the agency's innovative investment project administrator.

(c) A cost/benefit analysis which is a financial summary of how the innovative investment project will produce a cost savings for the agency or improve the quality of the public services delivered by the agency. The analysis shall include a breakdown of each project cost category, including, but not limited to: the costs associated with hiring of other-personal-services staff, re-engineering efforts, purchase of equipment, maintenance agreements, training, consulting services, travel, acquisition of information technology resources; any monetary or in-kind contributions made by the agency, another public entity, or the private sector; and available baseline data, performance measures, and outcomes as defined in s. 216.011(1).

(d) The approval of the agency head, the agency's budget director, the agency's inspector general or internal auditor, and, if the innovative investment project involves information technology resources, the information resource manager.

(6) Any agency developing an innovative investment project proposal that involves information technology resources may consult with and seek technical assistance from the commission. The *office* ~~department~~ shall consult with the commission for any project proposal that involves information resource technology. The commission is responsible for evaluating these projects and for advising the committee and review board of the technical feasibility and any transferable benefits of the proposed technology. In addition to the requirements of subsection (5), the agencies shall provide to the commission any information requested by the commission to aid in determining that the proposed technology is appropriate for the project's success.

(7) The *office* ~~department~~ shall select a review board composed of private and public members. Terms of review board members shall be for 1 year beginning on a date established by the *office* ~~department~~. Review board members may serve more than one term. The board shall evaluate innovative investment projects and shall make recommendations to the committee as to which innovative projects should be considered for funding.

(8) When evaluating projects, the committee and the review board shall consider whether the innovative investment project meets the following criteria:

(a) Increases the quality of public services by the agency.

(b) Reduces costs for the agency.

(c) Involves a cooperative effort with another public entity or the private sector.

(d) Reduces the need for hiring additional employees or avoids other operating costs incurred by the agency in the future.

(9) The committee shall allocate funds based on a competitive evaluation process and award funds to agencies for innovative investment projects demonstrating quantifiable savings to the state, or improved customer service delivery.

(10) The awarded agency shall monitor and evaluate the projects to determine if the anticipated results were achieved.

(11) Funds appropriated for the Innovation Investment Program shall be distributed by the Executive Office of the Governor subject to notice, review, and objection procedures set forth in s. 216.177. The *office* ~~department~~ may transfer funds from the annual appropriation as necessary to administer the program.

Section 8. Paragraph (c) is added to subsection (1) of section 216.292, Florida Statutes, to read:

216.292 Appropriations nontransferable; exceptions.—

(1)

(c) Notwithstanding any other provision of this section or the provisions of s. 216.351, for fiscal year 2001-2002, state agencies may transfer positions and appropriations as necessary to comply with any provision of the General Appropriations Act, or any other provision of law, that requires or specifically authorizes the transfer of positions and appropriations in the consolidation of information technology resources to the State Technology Office.

Section 9. Section 282.005, Florida Statutes, is amended to read:

282.005 Legislative findings and intent.—The Legislature finds that:

(1) Information is a strategic asset of the state, and, as such, it should be managed as a valuable state resource.

(2) The state makes significant investments in information technology ~~resources~~ in order to manage information and to provide services to its citizens.

(3) An office must be created to provide support and guidance to enhance the state's use and management of information technology ~~resources~~ and to design, procure, and deploy, on behalf of the state, information technology ~~resources~~.

(4) The cost-effective deployment of *information* technology ~~and information resources~~ by state agencies can best be managed by a Chief Information Officer.

(5) ~~The head of each state agency, in consultation with~~ The State Technology Office, has primary responsibility and accountability for the planning, budgeting, acquisition, development, implementation, use, and management of information technology ~~resources~~ within the *state* ~~agency~~. *The State Technology Office shall use the state's information technology in the best interest of the state as a whole and shall contribute to and make use of shared data and related resources whenever appropriate. Each agency head has primary responsibility and accountability for setting agency priorities, identifying business needs, and determining agency services and programs to be developed as provided by law. The State Technology Office, through service level agreements with each agency, shall provide the information technology needed for the agency to accomplish its mission.*

(6) The expanding need for, use of, and dependence on information technology ~~resources~~ requires focused management attention and managerial accountability by state agencies and the state as a whole.

~~(7) The agency head, in consultation with the State Technology Office, has primary responsibility for the agency's information technology resources and for their use in accomplishing the agency's mission. However, each agency shall also use its information technology resources in the best interests of the state as a whole and thus contribute to and make use of shared data and related resources whenever appropriate.~~

(7)~~(8)~~ The state*, through the State Technology Office,* shall provide, by whatever means is most cost-effective and efficient, *the information technology, enterprise resource planning and management, and enterprise resource management infrastructure* ~~the information resources management infrastructure~~ needed to collect, store, and process the state's data and information, provide connectivity, and facilitate the exchange of data and information among both public and private parties.

(8)~~(9)~~ A necessary part of the state's information *technology* ~~resources management~~ infrastructure is a statewide communications system for all types of signals, including*, but not limited to,* voice, data, video, radio, *telephone, wireless,* and image.

(9)~~(10)~~ To ensure the best management of the state's information technology ~~resources,~~ and notwithstanding other provisions of law to the contrary, the functions of information *technology* ~~resources management~~ are hereby assigned to the Board of Regents as the agency responsible for the development and implementation of policy, planning, management, rulemaking, standards, and guidelines for the State University System; to the State Board of Community Colleges as the agency responsible for establishing and developing rules and policies for the Florida Community College System; to the Supreme Court, for the judicial branch; to each state attorney and public defender; and to the State Technology Office for the executive branch of state government.

(10) The State Technology Office shall take no action affecting the supervision, control, management or coordination of information technology and information technology personnel, that any cabinet officer listed in s. 4 Art. IV of the State Constitution deems necessary for the exercise of his or her statutory or constitutional duties.

~~(11) Notwithstanding anything to the contrary contained in this act, the State Technology Office shall take no action affecting the supervision or control of the personnel or data processing equipment that the Comptroller deems necessary for the exercise of his or her official constitutional duties as set forth in s. 4(d) and (e), Art. IV of the State Constitution.~~

~~(12) Notwithstanding anything to the contrary contained in this act, the State Technology Office shall take no action affecting the supervision and control of the personnel or data processing equipment which the Attorney General deems necessary for the exercise of his or her official constitutional duties as set forth in s. 4(e), Art. IV of the State Constitution.~~

Section 10. Section 282.303, Florida Statutes, is renumbered as section 282.0041, Florida Statutes, and amended to read:

282.0041 ~~282.303~~ Definitions.—For the purposes of *this part* ~~ss. 282.303-282.322~~, the term:

(1) "Agency" means those entities described in s. 216.011(1)*(qq)*~~(mm)~~.

(2)~~(8)~~ "Agency Annual Enterprise Resource Planning and Management Report" means the report prepared by *each Agency* ~~the~~ Chief Information Officer ~~of each agency~~ as required by s. 282.3063.

(3)~~(2)~~ "*Agency* Chief Information Officer" means the person appointed by ~~the agency head, in consultation with~~ the State Technology Office~~,~~ to coordinate and manage the information *technology* ~~resources management~~ policies and activities *applicable to* ~~within~~ that agency.

(4)~~(3)~~ "*Agency* Chief Information Officers Council" means the council created in s. 282.315 to facilitate the sharing and coordination of information *technology* ~~resources management~~ issues and initiatives among the agencies.

(5)~~(13)~~ "Enterprise resources management infrastructure" means the hardware, software, networks, data, human resources, policies, standards, and facilities*, maintenance, and related materials and services* that are required to support the business processes of an agency or state enterprise.

~~(5) "Information technology hardware" means equipment designed for the automated storage, manipulation, and retrieval of data, voice or video, by electronic or mechanical means, or both, and includes, but is not limited to, central processing units, front-end processing units, including miniprocessors and microprocessors, and related peripheral equipment such as data storage devices, document scanners, data entry, terminal controllers and data terminal equipment, word processing systems, equipment and systems for computer networks, personal communication devices, and wireless equipment.~~

(6)~~(11)~~ "Enterprise resource planning and management" means the planning, budgeting, acquiring, developing, organizing, directing, training, ~~and~~ control*, and related services* associated with government information technology ~~resources~~. The term encompasses information and related resources, as well as the controls associated with their acquisition, development, dissemination, and use.

(7) "Information technology" means equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form.

~~(6) "Information technology services" means all services that include, but are not limited to, feasibility studies, systems design, software development, enterprise resource planning, application service provision, consulting, or time-sharing services.~~

~~(7) "Data processing software" means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs.~~

(8)~~(10)~~ "Project" means an undertaking directed at the accomplishment of a strategic objective relating to enterprise resources management or a specific appropriated program.

(9) "State Annual Report on Enterprise Resource Planning and Management" means the report prepared by the State Technology Office as defined in s. 282.3093.

(10)~~(16)~~ "Standards" means the use of current, open, nonproprietary, or non-vendor-specific technologies.

(11)~~(4)~~ "State Technology Office" *or "office"* means the office created in s. 282.102 ~~to support and coordinate cost-effective deployment of technology and information resources and services across state government~~.

(12)~~(15)~~ "Total cost" means all costs associated with information *technology* ~~resources management~~ projects or initiatives, including, but not limited to, value of hardware, software, service, maintenance, incremental personnel, and facilities. Total cost of a loan or gift of information technology resources to an agency includes the fair market value of the resources, except that the total cost of loans or gifts of information technology ~~resources~~ to state universities to be used in instruction or research does not include fair market value.

~~(12) "Information technology resources" means data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training.~~

~~(14) "Technology Review Workgroup" means the workgroup created in s. 216.0446 to review and make recommendations on agencies' information resources management planning and budgeting proposals.~~

Section 11. Section 282.102, Florida Statutes, is amended to read:

282.102 *Creation of the State Technology Office;* powers and duties ~~of the State Technology Office of the Department of Management Services~~.—There is created a State Technology Office~~, administratively placed~~ within the Department of Management Services*. The office shall be a separate budget entity*, *and* ~~which~~ shall be headed by a Chief Information Officer who is appointed by the Governor and is in the Senior Management Service. *The Chief Information Officer shall be an agency head for all purposes. The Department of Management Services shall provide administrative support and service to the office to the extent requested by the Chief Information Officer. The office may adopt policies and procedures regarding personnel, procurement, and transactions for State Technology Office personnel.* The office shall have the following powers, duties, and functions:

(1) To publish electronically the portfolio of services available from the office, including pricing information; the policies and procedures of the office governing usage of available services; and a forecast of the priorities and initiatives for the state communications system for the ensuing 2 years. ~~The office shall provide a hard copy of its portfolio of services upon request.~~

(2) *To adopt rules implementing policies and procedures providing best practices to be followed by agencies in acquiring, using, upgrading, modifying, replacing, or disposing of information technology.* ~~To coordinate the purchase, lease, and use of all information technology services for state agencies, including communications services provided as part of any other total system to be used by the state or any of its agencies.~~

(3) To perform, in consultation with an agency, the enterprise resource planning and management for the agency.

(4)~~(3)~~ To advise and render aid to state agencies and political subdivisions of the state as to systems or methods to be used for organizing and meeting information technology requirements efficiently and effectively.

(5)~~(4)~~ To integrate the information technology systems and services of state agencies.

(6)~~(5)~~ To adopt technical standards for the state information technology system which will assure the interconnection of computer networks and information systems of ~~state~~ agencies.

(7)~~(6)~~ To assume management responsibility for any integrated information technology system or service when determined by the office to be economically efficient or performance-effective.

(8)~~(7)~~ To enter into agreements *related to* ~~for the support and use of the~~ information technology *with* ~~services of~~ state agencies and of political subdivisions of the state.

(9)~~(8)~~ To use *and* ~~or~~ acquire, with agency concurrence, information technology ~~facilities~~ now owned or operated by any ~~state~~ agency.

~~(9) To standardize policies and procedures for the use of such services.~~

(10) To purchase from or contract with information technology providers for information technology ~~facilities or services~~, including private line services.

(11) To apply for, receive, and hold, *and to* ~~or~~ assist agencies in applying for, receiving, or holding, such authorizations, *patents, copyrights, trademarks, service marks,* licenses, and allocations or channels and frequencies to carry out the purposes of *this part* ~~ss. 282.101-282.109~~.

(12) To *purchase, lease, or otherwise* acquire *and to hold, sell, transfer, license, or otherwise dispose of* real*, personal* ~~estate~~, ~~equipment,~~ and *intellectual* ~~other~~ property*, including, but not limited to, patents, trademarks, copyrights, and service marks.*

(13) To cooperate with any federal, state, or local emergency management agency in providing for emergency communications services.

(14) To delegate*, as necessary,* to state agencies the *authority to purchase, lease, or otherwise acquire and to use* ~~powers of acquisition and utilization of~~ information technology ~~equipment, facilities, and services~~ or*, as necessary,* to control and approve the purchase, lease, *or acquisition* and *the* use of all information technology ~~equipment, services, and facilities~~, including*, but not limited to,* communications services provided as part of any other total system to be used by the state or any of its agencies.

(15) To *acquire* ~~take~~ ownership, *possession,* custody, and control of existing communications equipment and facilities, ~~with agency concurrence,~~ including all right, title, interest, and equity therein, *as necessary,* to carry out the purposes of *this part* ~~ss. 282.101-282.109~~. However, the provisions of this subsection shall in no way affect the rights, title, interest, or equity in any such equipment or facilities owned by, or leased to, the state or any state agency by any telecommunications company.

(16) To adopt rules pursuant to ss. 120.536(1) and 120.54 relating to information technology and to administer the provisions of this part.

(17) To provide a means whereby political subdivisions of the state may use ~~the~~ state information technology *systems* ~~system~~ upon such terms and under such conditions as the office may establish.

(18) To apply for and accept federal funds for any of the purposes of *this part* ~~ss. 282.101-282.109~~ as well as gifts and donations from individuals, foundations, and private organizations.

(19) To monitor issues relating to communications facilities and services before the Florida Public Service Commission and, when necessary, prepare position papers, prepare testimony, appear as a witness, and retain witnesses on behalf of state agencies in proceedings before the commission.

(20) Unless delegated to the agencies by the Chief Information Officer, to manage and control, but not intercept or interpret, communications within the SUNCOM Network by:

(a) Establishing technical standards to physically interface with the SUNCOM Network.

(b) Specifying how communications are transmitted within the SUNCOM Network.

(c) Controlling the routing of communications within the SUNCOM Network.

(d) Establishing standards, policies, and procedures for access to the SUNCOM Network.

(e) Ensuring orderly and reliable communications services in accordance with ~~the standards and policies of all state agencies and~~ the service *level* agreements executed with state agencies.

(21) To plan, design, and conduct experiments for information technology services, equipment, and technologies, and to implement enhancements in the state information technology system when in the public interest and cost-effective. Funding for such experiments shall be derived from SUNCOM Network service revenues and shall not exceed 2 percent of the annual budget for the SUNCOM Network for any fiscal year or as provided in the General Appropriations Act ~~for fiscal year 2000-2001~~. New services offered as a result of this subsection shall not affect existing rates for facilities or services.

(22) To enter into contracts or agreements, with or without competitive bidding or procurement, to make available, on a fair, reasonable, and nondiscriminatory basis, property and other structures under office control for the placement of new facilities by any wireless provider of mobile service as defined in 47 U.S.C. s. 153(n) or s. 332(d)

and any telecommunications company as defined in s. 364.02 when it is determined to be practical and feasible to make such property or other structures available. The office may, without adopting a rule, charge a just, reasonable, and nondiscriminatory fee for the placement of the facilities, payable annually, based on the fair market value of space used by comparable communications facilities in the state. The office and a wireless provider or telecommunications company may negotiate the reduction or elimination of a fee in consideration of services provided to the office by the wireless provider or telecommunications company. All such fees collected by the office shall be deposited directly into the ~~State Agency~~ Law Enforcement Radio *Operating* ~~System~~ Trust Fund, and may be used by the office to construct, maintain, or support the system.

(23) To provide an integrated electronic system for deploying government products, services, and information to individuals and businesses.

(a) The integrated electronic system shall reflect cost-effective deployment strategies in keeping with industry standards and practices, including protections *and* ~~of~~ security of private information as well as maintenance of public records.

(b) The office shall provide a method for assessing fiscal accountability for the integrated electronic system and shall establish the organizational structure required to implement this system.

(24) To provide administrative support to the *Agency* Chief Information Officers Council and other workgroups created by the Chief Information Officer.

(25) To facilitate state information technology education and training for senior management and other agency staff.

(26) To prepare, on behalf of the Executive Office of the Governor, memoranda on recommended guidelines and best practices for information resources management, when requested.

(27) To prepare, publish, and disseminate the State Annual Report on Enterprise Resource Planning and Management under s. 282.310.

(28) To study and make a recommendation to the Governor and Legislature on the feasibility of implementing online voting in this state.

(29) To facilitate the development of a network access point in this state, as needed.

(30) To designate a State Chief Privacy Officer who shall be responsible for the continual review of policies, laws, rules, and practices of state agencies which may affect the privacy concerns of state residents.

Section 12. Section 282.103, Florida Statutes, is amended to read:

282.103 SUNCOM Network; exemptions from the required use.—

(1) There is created within the State Technology Office ~~of the Department of Management Services~~ the SUNCOM Network which shall be developed to serve as the state communications system for providing local and long-distance communications services to state agencies, political subdivisions of the state, municipalities, and nonprofit corporations pursuant to ss. 282.101-282.111. The SUNCOM Network shall be developed to transmit all types of communications signals, including, but not limited to, voice, data, video, image, and radio. State agencies shall cooperate and assist in the development and joint use of communications systems and services.

(2) The State Technology Office ~~of the Department of Management Services~~ shall design, engineer, implement, manage, and operate through state ownership, commercial leasing, or some combination thereof, the facilities and equipment providing SUNCOM Network services, and shall develop a system of equitable billings and charges for communication services.

(3) All state agencies are required to use the SUNCOM Network for agency communications services as the services become available; however, no agency is relieved of responsibility for maintaining communications services necessary for effective management of its programs and functions. If a SUNCOM Network service does not meet the communications requirements of an agency, the agency shall notify the State Technology Office ~~of the Department of Management Services~~ in writing and detail the requirements for that communications service. If the office is unable to meet an agency's requirements by enhancing SUNCOM Network service, the office *may* ~~shall~~ grant the agency an exemption from the required use of specified SUNCOM Network services.

Section 13. Section 282.104, Florida Statutes, is amended to read:

282.104 Use of state SUNCOM Network by municipalities.—Any municipality may request the State Technology Office ~~of the Department of Management Services~~ to provide any or all of the SUNCOM Network's portfolio of communications services upon such terms and under such conditions as the *office* ~~department~~ may establish. The requesting municipality shall pay its share of installation and recurring costs according to the published rates for SUNCOM Network services and as invoiced by the office. Such municipality shall also pay for any requested modifications to existing SUNCOM Network services, if any charges apply.

Section 14. Subsection (1) of section 282.105, Florida Statutes, is amended to read:

282.105 Use of state SUNCOM Network by nonprofit corporations.—

(1) The State Technology Office ~~of the Department of Management Services~~ shall provide a means whereby private nonprofit corporations under contract with state agencies or political subdivisions of the state may use the state SUNCOM Network, subject to the limitations in this section. In order to qualify to use the state SUNCOM Network, a nonprofit corporation shall:

(a) Expend the majority of its total direct revenues for the provision of contractual services to the state, a municipality, or a political subdivision of the state; and

(b) Receive only a small portion of its total revenues from any source other than a state agency, a municipality, or a political subdivision of the state during the period of time SUNCOM Network services are requested.

Section 15. Section 282.106, Florida Statutes, is amended to read:

282.106 Use of SUNCOM Network by libraries.—The State Technology Office ~~of the Department of Management Services~~ may provide SUNCOM Network services to any library in the state, including libraries in public schools, community colleges, the State University System, and nonprofit private postsecondary educational institutions, and libraries owned and operated by municipalities and political subdivisions.

Section 16. Subsection (1), paragraphs (f) and (g) of subsection (2), and subsections (3), (4), and (5) of section 282.1095, Florida Statutes, are amended to read:

282.1095 State agency law enforcement radio system.—

(1) The State Technology Office ~~of the Department of Management Services~~ may acquire and implement a statewide radio communications system to serve law enforcement units of state agencies, and to serve local law enforcement agencies through a mutual aid channel. The Joint Task Force on State Agency Law Enforcement Communications is established in the State Technology Office ~~of the Department of Management Services~~ to advise the office of member-agency needs for the planning, designing, and establishment of the joint system. The State Agency Law Enforcement Radio System Trust Fund is established in the State Technology Office ~~of the Department of Management Services~~. The trust fund shall be funded from surcharges collected under ss. 320.0802 and 328.72.

(2)

(f) The State Technology Office ~~of the Department of Management Services~~ is hereby authorized to rent or lease space on any tower under

its control. The office may also rent, lease, or sublease ground space as necessary to locate equipment to support antennae on the towers. The costs for use of such space shall be established by the office for each site, when it is determined to be practicable and feasible to make space available. The office may refuse to lease space on any tower at any site. All moneys collected by the office for such rents, leases, and subleases shall be deposited directly into the ~~State Agency~~ Law Enforcement Radio *Operating* ~~System~~ Trust Fund and may be used by the office to construct, maintain, or support the system.

(g) The State Technology Office ~~of the Department of Management Services~~ is hereby authorized to rent, lease, or sublease ground space on lands acquired by the office for the construction of privately owned or publicly owned towers. The office may, as a part of such rental, lease, or sublease agreement, require space on said tower or towers for antennae as may be necessary for the construction and operation of the state agency law enforcement radio system or any other state need. The positions necessary for the office to accomplish its duties under this paragraph and paragraph (f) shall be established in the General Appropriations Act and shall be funded by the ~~State Agency~~ Law Enforcement Radio *Operating* ~~System~~ Trust Fund.

(3) Upon appropriation, moneys in the trust fund may be used by the office to acquire by competitive procurement the equipment; software; and engineering, administrative, and maintenance services it needs to construct, operate, and maintain the statewide radio system. Moneys in the trust fund collected as a result of the surcharges set forth in ss. 320.0802 and 328.72 shall be used to help fund the costs of the system. Upon completion of the system, moneys in the trust fund may also be used by the office to provide for payment of the recurring maintenance costs of the system. ~~Moneys in the trust fund may be appropriated to maintain and enhance, over and above existing agency budgets, existing radio equipment systems of the state agencies represented by the task force members, in an amount not to exceed 10 percent per year per agency, of the existing radio equipment inventory until the existing radio equipment can be replaced pursuant to implementation of the statewide radio communications system.~~

(4)(a) The *office* ~~joint task force~~ shall establish policies, procedures, and standards which shall be incorporated into a comprehensive management plan for the use and operation of the statewide radio communications system.

(b) The joint task force*, in consultation with the office,* shall have the authority to permit other state agencies to use the communications system, under terms and conditions established by the joint task force.

(5)~~(a)~~ The ~~State Technology~~ office ~~of the Department of Management Services~~ shall provide technical support to the joint task force and shall bear the overall responsibility for the design, engineering, acquisition, and implementation of the statewide radio communications system and for ensuring the proper operation and maintenance of all system common equipment.

~~(b) The positions necessary for the office to accomplish its duties under this section shall be established through the budgetary process and shall be funded by the State Agency Law Enforcement Radio System Trust Fund.~~

Section 17. Section 282.111, Florida Statutes, is amended to read:

282.111 Statewide system of regional law enforcement communications.—

(1) It is the intent and purpose of the Legislature that a statewide system of regional law enforcement communications be developed whereby maximum efficiency in the use of existing radio channels is achieved in order to deal more effectively with the apprehension of criminals and the prevention of crime generally. To this end, all law enforcement agencies within the state are directed to provide the State Technology Office ~~of the Department of Management Services~~ with any information the office requests for the purpose of implementing the provisions of subsection (2).

(2) The State Technology Office ~~of the Department of Management Services~~ is hereby authorized and directed to develop and maintain a statewide system of regional law enforcement communications. In formulating such a system, the office shall divide the state into appropriate regions and shall develop a program which shall include, but not be limited to, the following provisions:

(a) The communications requirements for each county and municipality comprising the region.

(b) An interagency communications provision which shall depict the communication interfaces between municipal, county, and state law enforcement entities which operate within the region.

(c) Frequency allocation and use provision which shall include, on an entity basis, each assigned and planned radio channel and the type of operation, simplex, duplex, or half-duplex, on each channel.

(3) The office shall adopt any necessary rules and regulations for implementing and coordinating the statewide system of regional law enforcement communications.

(4) The Chief Information Officer of the State Technology Office or his or her designee is designated as the director of the statewide system of regional law enforcement communications and, for the purpose of carrying out the provisions of this section, is authorized to coordinate the activities of the system with other interested state agencies and local law enforcement agencies.

(5) No law enforcement communications system shall be established or present system expanded without the prior approval of the State Technology Office ~~of the Department of Management Services~~.

(6) Within the limits of its capability, the Department of Law Enforcement is encouraged to lend assistance to the State Technology Office ~~of the Department of Management Services~~ in the development of the statewide system of regional law enforcement communications proposed by this section.

Section 18. Section 282.20, Florida Statutes, is amended to read:

282.20 Technology Resource Center.—

(1)(a) The State Technology Office ~~of the Department of Management Services~~ shall operate and manage the Technology Resource Center.

(b) For the purposes of this section, the term:

~~1. "Office" means the State Technology Office of the Department of Management Services.~~

1.~~2.~~ "Information-system utility" means a full-service information-processing facility offering hardware, software, operations, integration, networking, and consulting services.

2.~~3.~~ "Customer" means a state agency or other entity which is authorized to utilize the SUNCOM Network pursuant to this part.

(2) The Technology Resource Center shall:

(a) Serve the office and other customers as an information-system utility.

(b) Cooperate with customers to offer, develop, and support a wide range of services and applications needed by users of the Technology Resource Center.

(c) Cooperate with the Florida Legal Resource Center of the Department of Legal Affairs and other state agencies to develop and provide access to repositories of legal information throughout the state.

(d) Cooperate with the office to facilitate interdepartmental networking and integration of network services for its customers.

(e) Assist customers in testing and evaluating new and emerging technologies that could be used to meet the needs of the state.

(3) The office may contract with customers to provide any combination of services necessary for agencies to fulfill their responsibilities and to serve their users.

~~(4) Acceptance of any new customer other than a state agency which is expected to pay during the initial 12 months of use more than 5 percent of the previous year's revenues of the Technology Resource Center shall be contingent upon approval of the Office of Planning and Budgeting in a manner similar to the budget amendment process in s. 216.181.~~

(4)~~(5)~~ The Technology Resource Center may plan, design, establish pilot projects for, and conduct experiments with information technology resources, and may implement enhancements in services when such implementation is cost-effective. Funding for experiments and pilot projects shall be derived from service revenues and may not exceed 5 percent of the service revenues for the Technology Resource Center for any single fiscal year. Any experiment, pilot project, plan, or design must be approved by the Chief Information Officer ~~of the State Technology Office~~.

(5)~~(6)~~ Notwithstanding the provisions of s. 216.272, the Technology Resource Center may spend ~~the~~ funds in the reserve account of *the Technology Enterprise Operating Trust Fund* ~~its working capital trust fund~~ for enhancements to center operations or for information technology resources. Any expenditure of reserve account funds must be approved by the Chief Information Officer ~~of the State Technology Office~~. Any funds remaining in the reserve account at the end of the fiscal year may be carried forward and spent as approved by the Chief Information Officer ~~of the State Technology Office~~, provided that such approval conforms to any applicable provisions of chapter 216.

Section 19. Section 282.21, Florida Statutes, is amended to read:

282.21 The State Technology *Office's* ~~Office of the Department of Management Services'~~ electronic access services.—The State Technology Office ~~of the Department of Management Services~~ may collect fees for providing remote electronic access pursuant to s. 119.085. The fees may be imposed on individual transactions or as a fixed subscription for a designated period of time. All fees collected under this section shall be deposited in the appropriate trust fund of the program or activity that made the remote electronic access available.

Section 20. Subsections (1) and (2) of section 282.22, Florida Statutes, are amended to read:

282.22 ~~The~~ State Technology Office*;* ~~of the Department of Management Services~~ production*,* ~~and~~ dissemination*, and ownership* of materials and products.—

(1) It is the intent of the Legislature that when materials, products, information, and services are *acquired* ~~collected~~ or developed by or under the direction of the State Technology Office ~~of the Department of Management Services~~, through research and development or other efforts, including those subject to copyright, patent, or trademark, they shall be made available for use by state and local government entities at the earliest practicable date and in the most economical and efficient manner possible and consistent with chapter 119.

(2) To accomplish this objective the office is authorized to publish or partner with private sector entities to produce or have produced materials and products and to make them readily available for appropriate use. The office is authorized to charge an amount or receive value-added services adequate to cover the essential cost of producing and disseminating such materials, information, services, or products and is authorized to sell services~~, when appropriate, to any entity who is authorized to use the SUNCOM Network pursuant to this part and to the public~~.

Section 21. Section 282.23, Florida Statutes, is created to read:

282.23 State Strategic Information Technology Alliance.—

(1) The State Technology Office, in consultation with the Department of Management Services, may establish a State Strategic Information Technology Alliance for the acquisition and use of information technology and related material in accordance with competitive procurement provisions of chapter 287.

(2) The State Technology Office, in consultation with the Department of Management Services, shall adopt rules implementing policies and procedures applicable to establishing the strategic alliances with prequalified contractors or partners to provide the state with efficient, cost-effective, and advanced information technology.

Section 22. Section 282.3041, Florida Statutes, is repealed:

~~282.3041 State agency responsibilities.—The head of each state agency, in consultation with the State Technology Office, is responsible and accountable for enterprise resource planning and management within the agency in accordance with legislative intent and as defined in this part.~~

Section 23. Section 282.3055, Florida Statutes, is amended to read:

282.3055 Agency Chief Information Officer; appointment; duties.—

(1)(a) To assist the *State Technology Officer* ~~agency head~~ in carrying out the enterprise resource planning and management responsibilities, the *Chief Information Officer may* ~~agency head shall~~ appoint~~, in consultation with the State Technology Office,~~ or contract for *an Agency* ~~a~~ Chief Information Officer ~~at a level commensurate with the role and importance of information technology resources in the agency~~. This position may be full time or part time.

(b) The *Agency* Chief Information Officer must, at a minimum, have knowledge and experience in both management and information technology resources.

(2) The duties of the *Agency* Chief Information Officer include, but are not limited to:

(a) Coordinating and facilitating agency enterprise resource planning and management projects and initiatives.

(b) Preparing an agency annual report on enterprise resource planning and management pursuant to s. 282.3063.

(c) Developing and implementing agency enterprise resource planning and management policies, procedures, and standards, including specific policies and procedures for review and approval of the agency's purchases of information technology resources *in accordance with the office's policies and procedures*.

(d) Advising agency senior management as to the enterprise resource planning and management needs of the agency for inclusion in planning documents required by law.

(e) Assisting in the development and prioritization of the enterprise resource planning and management schedule of the agency's legislative budget request.

Section 24. Subsection (1) of section 282.3063, Florida Statutes, is amended to read:

282.3063 Agency Annual Enterprise Resource Planning and Management Report.—

(1) By September 1 of each year, and for the State University System within 90 days after completion of the expenditure analysis developed pursuant to s. 240.271(4), each *Agency* Chief Information Officer shall prepare and submit to the State Technology Office an Agency Annual Enterprise Resource Planning and Management Report. Following consultation with the State Technology Office and the *Agency* Chief Information Officers Council, the Executive Office of the Governor and the fiscal committees of the Legislature shall jointly develop and issue instructions for the format and contents of the report.

Section 25. Subsections (1) and (2) of section 282.315, Florida Statutes, are amended to read:

282.315 *Agency* Chief Information Officers Council; creation.—The Legislature finds that enhancing communication, consensus building, coordination, and facilitation of statewide enterprise resource planning and management issues is essential to improving state management of such resources.

(1) There is created *an Agency* ~~a~~ Chief Information Officers Council to:

(a) Enhance communication among the *Agency* Chief Information Officers ~~of state agencies~~ by sharing enterprise resource planning and management experiences and exchanging ideas.

(b) Facilitate the sharing of best practices that are characteristic of highly successful technology organizations, as well as exemplary information technology applications of state agencies.

(c) Identify efficiency opportunities among state agencies.

(d) Serve as an educational forum for enterprise resource planning and management issues.

(e) Assist the State Technology Office in identifying critical statewide issues and, when appropriate, make recommendations for solving enterprise resource planning and management deficiencies.

(2) Members of the council shall include the *Agency* Chief Information Officers ~~of all state agencies~~, including the Chief Information Officers of the agencies and governmental entities enumerated in s. 282.3031, except that there shall be one Chief Information Officer selected by the state attorneys and one Chief Information Officer selected by the public defenders. The chairs, or their designees, of ~~the Geographic Information Board,~~ the Florida Financial Management Information System Coordinating Council, the Criminal and Juvenile Justice Information Systems Council, and the Health Information Systems Council shall represent their respective organizations on the Chief Information Officers Council as voting members.

Section 26. Subsection (2) of section 282.318, Florida Statutes, is amended to read:

282.318 Security of data and information technology resources.—

(2)(a) ~~Each agency head, in consultation with~~ The State Technology Office, *in consultation with each agency head,* is responsible and accountable for assuring an adequate level of security for all data and information technology resources of *each* ~~the~~ agency and, to carry out this responsibility, shall, at a minimum:

1. Designate an information security manager who shall administer the security program of *each* ~~the~~ agency for its data and information technology resources.

2. Conduct, and periodically update, a comprehensive risk analysis to determine the security threats to the data and information technology resources of *each* ~~the~~ agency. The risk analysis information is confidential and exempt from the provisions of s. 119.07(1), except that such information shall be available to the Auditor General in performing his or her postauditing duties.

3. Develop, and periodically update, written internal policies and procedures to assure the security of the data and information technology resources of *each* ~~the~~ agency. The internal policies and procedures which, if disclosed, could facilitate the unauthorized modification, disclosure, or destruction of data or information technology resources are confidential information and exempt from the provisions of s. 119.07(1), except that such information shall be available to the Auditor General in performing his or her postauditing duties.

4. Implement appropriate cost-effective safeguards to reduce, eliminate, or recover from the identified risks to the data and information technology resources of *each* ~~the~~ agency.

5. Ensure that periodic internal audits and evaluations of *each* ~~the~~ security program for the data and information technology resources of the agency are conducted. The results of such internal audits and evaluations are confidential information and exempt from the provisions of s. 119.07(1), except that such information shall be available to the Auditor General in performing his or her postauditing duties.

6. Include appropriate security requirements, as determined by the *State Technology Office, in consultation with each* agency *head*, in the written specifications for the solicitation of information technology resources.

(b) In those instances in which the State Technology Office ~~of the Department of Management Services~~ develops state contracts for use by state agencies, the *office* ~~department~~ shall include appropriate security requirements in the specifications for the solicitation for state contracts for procuring information technology resources.

Section 27. Section 282.322, Florida Statutes, is amended to read:

282.322 *High-risk information technology projects; reporting, monitoring, and assessment* ~~Special monitoring process for designated information resources management projects.~~—*The Enterprise Project Management Office of the State Technology Office shall report any information technology projects the office identifies as high-risk to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the appropriations committee chairs of the Senate and the House of Representatives. In addition to monitoring and reporting on such high-risk information technology projects, the Enterprise Project Management Office shall assess the levels of risks associated with proceeding to the next stage of the project.* ~~For each information resources management project which is designated for special monitoring in the General Appropriations Act, with a proviso requiring a contract with a project monitor, the Technology Review Workgroup established pursuant to s. 216.0446, in consultation with each affected agency, shall be responsible for contracting with the project monitor. Upon contract award, funds equal to the contract amount shall be transferred to the Technology Review Workgroup upon request and subsequent approval of a budget amendment pursuant to s. 216.292. With the concurrence of the Legislative Auditing Committee, the office of the Auditor General shall be the project monitor for other projects designated for special monitoring. However, nothing in this section precludes the Auditor General from conducting such monitoring on any project designated for special monitoring. In addition to monitoring and reporting on significant communications between a contracting agency and the appropriate federal authorities, the project monitoring process shall consist of evaluating each major stage of the designated project to determine whether the deliverables have been satisfied and to assess the level of risks associated with proceeding to the next stage of the project. The major stages of each designated project shall be determined based on the agency's information systems development methodology. Within 20 days after an agency has completed a major stage of its designated project or at least 90 days, the project monitor shall issue a written report, including the findings and recommendations for correcting deficiencies, to the agency head, for review and comment. Within 20 days after receipt of the project monitor's report, the agency head shall submit a written statement of explanation or rebuttal concerning the findings and recommendations of the project monitor, including any corrective action to be taken by the agency. The project monitor shall include the agency's statement in its final report, which shall be forwarded, within 7 days after receipt of the agency's statement, to the agency head, the inspector general's office of the agency, the Executive Office of the Governor, the appropriations committees of the Legislature, the Joint Legislative Auditing Committee, the Technology Review Workgroup, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability. The Auditor General shall also receive a copy of the project monitor's report for those projects in which the Auditor General is not the project monitor.~~

Section 28. Paragraph (f) of subsection (2) of section 216.163, Florida Statutes, is amended to read:

216.163 Governor's recommended budget; form and content; declaration of collective bargaining impasses.—

(2) The Governor's recommended budget shall also include:

(f) The Governor's recommendations for *high-risk* ~~critical~~ information *technology* ~~resource management~~ projects which should be subject to ~~special~~ monitoring under s. 282.322. These recommendations

shall include proviso language which specifies whether funds are specifically provided to contract for project monitoring, or whether the Auditor General will conduct such project monitoring. When funds are recommended for contracting with a project monitor, such funds may equal 1 percent to 5 percent of the project's estimated total costs. These funds shall be specifically appropriated and nonrecurring.

Section 29. Paragraph (b) of subsection (1) and paragraph (o) of subsection (3) of section 119.07, Florida Statutes, are amended to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(1)

(b) If the nature or volume of public records requested to be inspected, examined, or copied pursuant to this subsection is such as to require extensive use of information technology resources or extensive clerical or supervisory assistance by personnel of the agency involved, or both, the agency may charge, in addition to the actual cost of duplication, a special service charge, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required, or both. "Information technology resources" *means data processing hardware and software and services, communications, supplies, personnel, facility resources, maintenance, and training* ~~shall have the same meaning as in s. 282.303(12)~~.

(3)

(o) Data processing software obtained by an agency under a licensing agreement which prohibits its disclosure and which software is a trade secret, as defined in s. 812.081, and agency-produced data processing software which is sensitive are exempt from the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution. The designation of agency-produced software as sensitive shall not prohibit an agency head from sharing or exchanging such software with another public agency. As used in this paragraph:

1. "Data processing software" *means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs* ~~has the same meaning as in s. 282.303(7)~~.

2. "Sensitive" means only those portions of data processing software, including the specifications and documentation, used to:

a. Collect, process, store, and retrieve information which is exempt from the provisions of subsection (1);

b. Collect, process, store, and retrieve financial management information of the agency, such as payroll and accounting records; or

c. Control and direct access authorizations and security measures for automated systems.

Section 30. Paragraph (b) of subsection (1) of section 119.083, Florida Statutes, is amended to read:

119.083 Definitions; copyright of data processing software created by governmental agencies; fees; prohibited contracts.—

(1) As used in this section:

(b) "Data processing software" has the same meaning as in s. *119.07(3)(o)* ~~282.303~~.

Section 31. *(1) Each state agency that entered into a memorandum of agreement with the State Technology Office by March 15, 2001, regarding consolidation of information technology resources and staff, shall transfer the positions identified in the memoranda and the associated rate and the amount of approved budget to the State Technology Office on October 1, 2001. The total number of positions transferred to the State Technology Office shall not exceed 1,760 full-time positions. Such transfers shall be subject to approval by the Legislative Budget Commission pursuant to chapter 216, Florida Statutes.*

(2) Each state agency required to transfer positions pursuant to subsection (1) shall also transfer administrative support personnel and associated rate and the amount of approved budget to the State Technology Office. The number of administrative support positions transferred by each agency shall not exceed 5 percent of the number of positions transferred pursuant to subsection (1). Such transfers shall take effect July 15, 2001. Such transfers shall be subject to approval by the Legislative Budget Commission pursuant to chapter 216, Florida Statutes.

(3) The State Technology Office and the individual agencies may request subsequent transfers of full-time positions and associated rate and funds during the fiscal year to meet the levels of service agreed to between the State Technology Office and the agencies. Such transfers shall be subject to approval by the Legislative Budget Commission pursuant to chapter 216, Florida Statutes.

(4) The State Technology Office is authorized to charge back to each participating agency an amount equal to the total of all direct and indirect costs of administering the agreement with the agency and the total of all direct and indirect costs of rendering the performances required of the State Technology Office under such agreements.

(5) Any resources transferred to the State Technology Office which were dedicated to a federally funded system shall remain allocated to that system until the appropriate federal agency or authority confirms in writing that another plan for supporting the system will not result in federal sanctions.

(6) The corresponding amounts necessary to execute subsections (1)-(3) are appropriated to the state agencies for transfer to the State Technology Office. Such amounts and specific funds shall be equivalent to the amount of approved budget reduced from state agencies in subsections (1)-(3), subject to approval by the Legislative Budget Commission.

Section 32. *Section 282.404, Florida Statutes, is repealed.*

Section 33. Subsection (6) of Section 11.90, Florida Statutes, is created to read:

(6) The Commission shall review information resources management needs identified in agency long-range program plans for consistency with the State Annual Report on Enterprise Resource Planning and Management and statewide policies adopted by the State Technology Office. The Commission shall also review proposed budget amendments associated with information technology that involve more than one agency, that have an outcome that impacts another agency, or that exceed $500,000 in total cost over 1-year period.

Section 34. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2, through page 6, line 11,
remove from the title of the bill: all of said lines

and insert in lieu thereof:

An act relating to information technology; amending s. 20.22, F.S.; creating the State Technology Office within the Department of Management Services; requiring the office to operate and manage the Technology Resource Center; amending s. 110.205, F.S.; providing that specified officers within the State Technology Office are exempt from career service; providing that the office shall set the salaries and benefits for such officers in accordance with the rules of the Senior Management Service; providing for the personal secretary to specified officers within the State Technology Office to be exempt from career service; providing for all managers, supervisors, and confidential employees of the State Technology Office to be exempt from career service; providing that the office shall set the salaries and benefits for those positions in accordance with the rules of the Selected Exempt

Service; amending s. 186.022, F.S.; revising the entities required to annually develop and submit an information technology strategic plan; providing for the State Technology Office to administer and approve development of information technology strategic plans; amending s. 216.013, F.S.; revising provisions relating to the review of long-range program plans for executive agencies by the Executive Office of the Governor; providing that the Executive Office of the Governor shall consider the findings of the State Technology Office with respect to the State Annual Report on Enterprise Resource Planning and Management and statewide policies adopted by the State Technology Office; amending s. 216.0446, F.S., relating to review of agency information resources management needs; eliminating the Technology Review Workgroup; providing for assumption of the duties of the Technology Review Workgroup by the State Technology Office; requiring the reporting of specified information to the Executive Office of the Governor; providing powers and duties of the State Technology Office; amending s. 216.181, F.S., relating to approved budgets for operations and fixed capital outlay; providing requirements with respect to an amendment to the original approved operating budget for specified information technology projects or initiatives; amending s. 216.235, F.S.; transferring specified responsibilities with respect to the Innovation Investment Program Act from the Department of Management Services to the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor; revising the membership of the State Innovation Committee; amending s. 216.292, F.S.; authorizing state agencies to transfer positions and appropriations for fiscal year 2001-2002 for the purpose of consolidating information technology resources to the State Technology Office; amending s. 282.005, F.S.; revising legislative findings and intent with respect to the Information Resources Management Act of 1997; providing that the State Technology Office has primary responsibility and accountability for information technology matters within the state except as to information technology or information technology personnel that a constitutional officer under s. 4 Art. 4 deems necessary for the performance of his or her constitutional or statutory duties; amending and renumbering s. 282.303, F.S.; revising definitions; defining "information technology"; amending s. 282.102, F.S.; revising powers and duties of the State Technology Office; providing that the office shall be a separate budget entity within the Department of Management Services; providing that the Chief Information Officer shall be considered an agency head; providing for administrative support and service from Department of Management Services; authorizing the office to perform, in consultation with a state agency, the enterprise resource planning and management for the agency; authorizing the office to apply for, receive, and hold specified patents, copyrights, trademarks, and service marks; authorizing the office to purchase, lease, hold, sell, transfer, license, and dispose of specified real, personal, and intellectual property; providing for deposit of specified fees in the Law Enforcement Radio Operating Trust Fund; providing for a State Chief Privacy Officer; amending s. 282.103, F.S., to conform; authorizing the State Technology Office to grant an agency exemption from required use of specified SUNCOM Network services; amending s. 282.104, F.S., to conform; amending s. 282.105, F.S., to conform; amending s. 282.106, F.S., to conform; amending s. 282.1095, F.S., relating to the state agency law enforcement radio system; providing conforming amendments; renaming the State Agency Law Enforcement Radio System Trust Fund as the Law Enforcement Radio Operating Trust Fund; requiring the office to establish policies, procedures, and standards for a comprehensive plan for a statewide radio communications system; eliminating provisions relating to establishment and funding of specified positions; amending s. 282.111, F.S., to conform; amending s. 282.20, F.S., relating to the Technology Resource Center; providing conforming amendments; removing provisions relating to the acceptance of new customers by the center; authorizing the center to spend funds in the reserve account of the Technology Enterprise Operating Trust Fund; amending s. 282.21, F.S., to conform; amending s. 282.22, F.S.; revising terminology; removing specified restrictions on the office's authority to sell services; creating s. 282.23, F.S.; authorizing the State Technology Office, in consultation with the Department of Management Services, to establish a State Strategic Information Technology Alliance; providing purposes of the alliance; providing for the establishment of policies and procedures; repealing s. 282.3041, F.S., which provides that the head of each state agency is responsible and accountable for enterprise resource planning and management within the agency; amending s. 282.3055, F.S.; authorizing the Chief Information Officer to appoint or contract for Agency Chief Information Officers to assist in carrying out enterprise resource planning and management responsibilities; amending s. 282.3063, F.S.; requiring Agency Chief Information Officers to prepare and submit an Agency Annual Enterprise Resource Planning and Management Report; amending s. 282.315, F.S.; renaming the Chief Information Officers Council as the Agency Chief Information Officers Council; revising the voting membership of the council; amending amending s. 282.318, F.S., to conform; amending s. 282.322, F.S.; eliminating provisions relating to the special monitoring process for designated information resources management projects; requiring the Enterprise Project Management Office of the State Technology Office to report on, monitor, and assess risk levels of specified high-risk technology projects; amending s. 216.163, F.S.; providing that the Governor's recommended budget shall include recommendations for specified high-risk information technology projects; amending s. 119.07, F.S.; defining "information technology resources" and "data processing software"; amending ss. 119.083, F.S.; correcting cross references; requiring certain state agencies to transfer described positions and administrative support personnel to the State Technology Office by specified dates; providing limits on the number of positions and administrative support personnel transferred; providing that the State Technology Office and the relevant agencies are authorized to request subsequent transfers of positions, subject to approval by the Legislative Budget Commission; providing requirements with respect to transferred resources which were dedicated to a federally funded system; providing appropriations; repealing s. 282.404, F.S.; abolishing the Florida Geographic Information Board within the State Technology Office; provides for Legislative Budgeting Commission review of certain agency plans, State Technology Office policies, and certain budget amendments; providing an effective date.

Rep. Hart moved the adoption of the amendment.

Representative(s) Hart and Lacasa offered the following:

(Amendment Bar Code: 090221)

Amendment 1 to Amendment 8—On page 11, line 26 through page 13, line 21,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 5. Section 216.0446, Florida Statutes, is amended to read:

216.0446 Review of information resources management needs.—

(1) There is created within the Legislature the Technology Review Workgroup. The workgroup *and the State Technology Office* shall *independently* review and make recommendations with respect to the portion of agencies' long-range program plans which pertains to information resources management needs and with respect to agencies' legislative budget requests for information *technology and related* resources ~~management~~. The Technology Review Workgroup shall *report such recommendations, together with the findings and conclusions on which such recommendations are based,* ~~be responsible~~ to the *Legislative Budget Commission* ~~chairs of the legislative appropriations committees~~. *The State Technology Office shall report such recommendations, together with the findings and conclusions on which such recommendations are based, to the Executive Office of the Governor and to the chairs of the legislative appropriations committees*.

(2) In addition to its primary duty specified in subsection (1), the Technology Review Workgroup shall have powers and duties that include, but are not limited to, the following:

(a) To evaluate the information resource management needs identified in the agency long-range program plans for consistency with the State Annual Report on *Enterprise Resource Planning and* ~~Information Resources~~ Management and statewide policies recommended by the State Technology *Office* ~~Council~~, and make

recommendations to the *Legislative Budget Commission* ~~chairs of the legislative appropriations committees~~.

(b) To review and make recommendations to the *Legislative Budget Commission* ~~chairs of the legislative appropriations committees~~ on proposed budget amendments and agency transfers associated with information *technology* ~~resources management~~ initiatives or projects that involve more than one agency, that have an outcome that impacts another agency, ~~or~~ that exceed $500,000 in total cost over a 1-year period*, or that are requested by the Legislative Budget Commission to be reviewed*.

Section 6. Subsection (5)of section 216.181, Florida Statutes, is amended to read:

216.181 Approved budgets for operations and fixed capital outlay.—

(5) An amendment *to the original operating budget* for an information *technology* ~~resources management~~ project or initiative that involves more than one agency, has an outcome that impacts another agency, or exceeds $500,000 in total cost over a 1-year period, except for those projects that are a continuation of hardware or software maintenance or software licensing agreements, or that are for desktop replacement that is similar to the technology currently in use must be reviewed by the Technology Review Workgroup pursuant to s. 216.0466 and approved by the Executive Office of the Governor for the executive branch or by the Chief Justice for the judicial branch, and shall be subject to the notice and review procedures set forth in s. 216.177.

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

Representative(s) Hart and Lacasa offered the following:

(Amendment Bar Code: 640861)

Amendment 2 to Amendment 8 (with title amendment)—On page 45, line 21, through page 47, line 18, of the amendment
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 27. 282.322 Special monitoring process for designated information resources management projects.—

*(1)*For each information resources management project which is designated for special monitoring in the General Appropriations Act, with a proviso requiring a contract with a project monitor, the Technology Review Workgroup established pursuant to s. 216.0446, in consultation with each affected agency, shall be responsible for contracting with the project monitor. Upon contract award, funds equal to the contract amount shall be transferred to the Technology Review Workgroup upon request and subsequent approval of a budget amendment pursuant to s. 216.292. With the concurrence of the Legislative Auditing Committee, the office of the Auditor General shall be the project monitor for other projects designated for special monitoring. However, nothing in this section precludes the Auditor General from conducting such monitoring on any project designated for special monitoring. In addition to monitoring and reporting on significant communications between a contracting agency and the appropriate federal authorities, the project monitoring process shall consist of evaluating each major stage of the designated project to determine whether the deliverables have been satisfied and to assess the level of risks associated with proceeding to the next stage of the project. The major stages of each designated project shall be determined based on the agency's information systems development methodology. Within 20 days after an agency has completed a major stage of its designated project or at least 90 days, the project monitor shall issue a written report, including the findings and recommendations for correcting deficiencies, to the agency head, for review and comment. Within 20 days after receipt of the project monitor's report, the agency head shall submit a written statement of explanation or rebuttal concerning the findings and recommendations of the project monitor, including any corrective action to be taken by the agency. The project monitor shall include the agency's statement in its final report, which shall be forwarded, within 7 days after receipt of the agency's statement, to the agency head, the inspector general's office of the agency, the Executive Office of the Governor, the appropriations committees of the Legislature, the Joint Legislative Auditing Committee, the Technology Review Workgroup, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability. The Auditor General shall also receive a copy of the project monitor's report for those projects in which the Auditor General is not the project monitor.

(2) The Enterprise Project Management Office of the State Technology Office shall report any information technology projects the office identifies as high-risk to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the appropriations committees. Within the limits of current appropriations, the Enterprise Project Management Office shall monitor and report on such high-risk information technology projects, and assess the levels of risks associated with proceeding to the next stage of the project.

And the title is amended as follows:

On page 56, lines 28-31 of the amendment
remove: all of said lines

and insert in lieu thereof: s. 282.322, F.S.; requiring the Enterprise Project

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

The question recurred on the adoption of **Amendment 8**, as amended, which was adopted.

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

CS/HB 379 was taken up. On motion by Rep. Allen, SB 814 was substituted for CS/HB 379. Under Rule 5.15, the House bill was laid on the table and—

SB 814—A bill to be entitled An act relating to the entertainment industry; amending s. 288.1251, F.S.; renaming the Office of the Film Commissioner as the Office of Film and Entertainment; renaming the Film Commissioner as the Commissioner of Film and Entertainment; authorizing receipt and expenditure of certain grants and donations; requiring such funds to be deposited in the Grants and Donations Trust Fund of the Executive Office of the Governor; amending s. 288.1252, F.S.; renaming the Florida Film Advisory Council as the Florida Film and Entertainment Advisory Council; adding a representative of Workforce Florida, Inc., as an ex officio, nonvoting member of the council; requiring the council chair to be elected from the council's appointed membership; amending ss. 212.097 and 212.098, F.S.; expanding the definition of "eligible business" under the Urban High-Crime-Area Job Tax Credit Program and the Rural Job Tax Credit Program to include certain businesses involved in motion picture production and allied services; amending ss. 14.2015, 213.053, 288.1253, and 288.1258, F.S.; conforming provisions to changes made by the act; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1187 was taken up. On motion by Rep. Wishner, the rules were waived and SB 540 was substituted for HB 1187. Under Rule 5.15, the House bill was laid on the table and—

SB 540—A bill to be entitled An act relating to criminal activities; creating the White Collar Crime Victim Protection Act; providing legislative intent; providing definitions; specifying crimes and acts that constitute a white collar crime; providing that a person commits an aggravated white collar crime if the white collar crime is committed against certain persons or against a state agency or political subdivision; providing enhanced penalties for aggravated white collar crimes; requiring that a defendant convicted of an aggravated white collar crime pay court costs and restitution; requiring that payment of

restitution be a condition of probation; amending s. 910.15, F.S.; providing that a communication made by or through the use of the Internet was made in every county of the state for purposes of prosecuting certain fraudulent practices; amending s. 921.0022, F.S.; adding certain aggravated white collar crimes to the Criminal Punishment Code offense severity ranking chart; providing for severability; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1673—A bill to be entitled An act relating to criminal penalties; providing a short title; creating s. 741.283, F.S.; requiring that the court order a person to serve a minimum term of imprisonment as part of any sentence imposed for an offense of domestic violence involving physical injury to another person; providing an exception if the person is incarcerated for such offense; amending s. 784.03, F.S.; providing that a person commits felony battery if the offense is a second or subsequent conviction of any type of battery offense; creating s. 938.08, F.S.; requiring that the court impose an additional surcharge for any offense of domestic battery; providing for deposit of a portion of the surcharge into the Domestic Violence Trust Fund; requiring that a portion of the surcharge be used to train law enforcement personnel in combating domestic violence; amending s. 948.03, F.S.; requiring that a person convicted of an offense of domestic violence complete a batterers' intervention program; requiring that the offender pay the cost of attending the program; amending s. 741.01, F.S.; authorizing the Executive Office of the Governor to use a specified amount from the Domestic Violence Trust Fund to fund a public-awareness campaign on domestic violence; providing an effective date.

—was read the second time by title.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 031181)

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

and insert in lieu thereof:

Section 1. *This act may be cited as the "Family Protection Act."*

Section 2. Paragraph (f) of subsection (9) of section 39.301, Florida Statutes, is amended to read:

39.301 Initiation of protective investigations.—

(9) For each report it receives, the department shall perform an onsite child protective investigation that includes a face-to-face interview with the child, other siblings, parents, and other adults in the household and an onsite assessment of the child's residence in order to:

(f) Determine the protective, treatment, and ameliorative services necessary to safeguard and ensure the child's safety and well-being and development, and cause the delivery of those services through the early intervention of the department or its agent. *The training provided to staff members who conduct child protective investigations must include instruction on how and when to use the injunction process under s. 39.504 or s. 741.30 to remove a perpetrator of domestic violence from the home as an intervention to protect the child.*

Section 3. Section 741.283, Florida Statutes, is created to read:

741.283 Minimum term of imprisonment for domestic violence.—If a person is adjudicated guilty of a crime of domestic violence, as defined in s. 741.28, and the person has intentionally caused bodily harm to another person, the court shall order the person to serve a minimum of 5 days in the county jail as part of the sentence imposed, unless the court sentences the person to a nonsuspended period of incarceration in a state correctional facility. This section does not preclude the court from sentencing the person to probation, community control, or an additional period of incarceration.

Section 4. Section 784.03, Florida Statutes, is amended to read:

784.03 Battery; felony battery.—

(1)(a) The offense of battery occurs when a person:

1. Actually and intentionally touches or strikes another person against the will of the other; or

2. Intentionally causes bodily harm to another person.

(b) Except as provided in subsection (2), a person who commits battery commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who has *one* ~~two~~ prior *conviction* ~~convictions~~ for battery*, aggravated battery, or felony battery and* who commits *any second* ~~a third~~ or subsequent battery commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this subsection, "conviction" means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld *or a plea of nolo contendere is entered*.

Section 5. Section 938.08, Florida Statutes, is created to read:

938.08 Additional cost to fund programs in domestic violence.—In addition to any sanction imposed for a violation of s. 784.011, s. 784.021, s. 784.03, s. 784.041, s. 784.045, s. 784.048, s. 784.07, s. 784.08, s. 784.081, s. 784.082, s. 784.083, s. 784.085, 794.011, or for any offense of domestic violence described in s. 741.28, the court shall impose a surcharge of $201. Payment of the surcharge shall be a condition of probation, community control, or any other court-ordered supervision. The sum of $85 of the surcharge shall be deposited into the Domestic Violence Trust Fund established in s. 741.01. The clerk of the court shall retain $1 of each surcharge that the clerk of the court collects as a service charge of the clerk's office. The remainder of the surcharge shall be provided to the governing board of the county to be used to defray the costs of incarcerating persons sentenced under s. 741.283 and to provide additional training to law enforcement personnel in combating domestic violence.

Section 6. Subsection (12) is added to section 948.03, Florida Statutes, to read:

948.03 Terms and conditions of probation or community control.—

(12) As a condition of probation, community control, or any other court-ordered community supervision, the court shall order a person convicted of an offense of domestic violence, as defined in s. 741.28, to attend and successfully complete a batterers' intervention program unless the court determines that the person does not qualify for the batterers' intervention program pursuant to s. 741.325. Effective July 1, 2002, the batterers' intervention program must be a program certified under s. 741.32 and the offender must pay the cost of attending the program.

Section 7. Subsection (2) of section 741.01, Florida Statutes, is amended to read:

741.01 County court judge or clerk of the circuit court to issue marriage license; fee.—

(2) The fee charged for each marriage license issued in the state shall be increased by the sum of $30. This fee shall be collected upon receipt of the application for the issuance of a marriage license. The Executive Office of the Governor shall establish a Domestic Violence Trust Fund for the purpose of collecting and disbursing funds generated from the increase in the marriage license fee. Such funds which are generated shall be directed to the Department of Children and Family Services for the specific purpose of funding domestic violence centers, and the funds shall be appropriated in a "grants-in-aid" category to the Department of Children and Family Services for the purpose of funding domestic violence centers. *From the proceeds of the surcharge deposited into the Domestic Violence Trust Fund as required under s. 938.08, the Executive Office of the Governor may spend up to $500,000 each year for the purpose of administering a statewide public-awareness campaign regarding domestic violence.*

Section 8. Section 741.281, Florida Statutes, is amended to read:

741.281 Court to order batterers' intervention program attendance.—If a person is found guilty of, has had adjudication withheld on, or has pled nolo contendere to a crime of domestic violence, as defined in s. 741.28, that person shall be ordered by the court to a minimum term of 1 year's probation and the court shall order that the defendant attend a batterers' intervention program as a condition of probation. If a person is admitted to a pretrial diversion program and has been charged with an act of domestic violence, as defined in s. 741.28, the court shall order as a condition of the program that the defendant attend a batterers' intervention program. The court must impose the condition of the batterers' intervention program for a defendant *admitted to* ~~placed on probation or~~ pretrial diversion under this section, but the court, in its discretion, may determine not to impose the condition if it states on the record why a batterers' intervention program might be inappropriate. *The court must impose the condition of the batterers' intervention program for a defendant placed on probation unless the court determines that the person does not qualify for the batterers' intervention program pursuant to s. 741.325. Effective July 1, 2002, the batterers' intervention program must* ~~It is preferred, but not mandatory, that such programs~~ be *a* certified *program* under s. 741.32. The imposition of probation under this section shall not preclude the court from imposing any sentence of imprisonment authorized by s. 775.082.

Section 9. This act shall take effect July 1, 2001.

And the title is amended as follows:

remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to acts of violence; providing a short title; amending s. 39.301, F.S.; requiring that staff who conduct child protective investigations receive training on removing a perpetrator of domestic violence from the home by use of injunction; creating s. 741.283, F.S.; requiring that the court order a person to serve a minimum term of imprisonment as part of any sentence imposed for an offense of domestic violence that intentionally caused bodily harm to another person; providing an exception if the person is incarcerated for such offense; amending s. 784.03, F.S.; providing that a person commits felony battery if the offense is a second or subsequent conviction of any type of battery offense; creating s. 938.08, F.S.; requiring that the court impose an additional surcharge for any offense of domestic violence and other assault, battery, and stalking offenses; providing for deposit of a portion of the surcharge into the Domestic Violence Trust Fund; providing for the clerk of the court to retain a service charge; requiring that a portion of the surcharge be used to train law enforcement personnel in combating domestic violence; amending s. 948.03, F.S.; requiring that a person convicted of an offense of domestic violence complete a batterers' intervention program; requiring that the offender pay the cost of attending the program; amending s. 741.01, F.S.; authorizing the Executive Office of the Governor to use a specified amount from the Domestic Violence Trust Fund to fund a public-awareness campaign on domestic violence; amending s. 741.281, F.S.; requiring the court to impose the batterers' intervention program as a condition of probation; providing for an exception; requiring that the batterers' intervention program be certified; providing an effective date.

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

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

CS/HB 589—A bill to be entitled An act relating to local government utilities assistance; providing a short title; providing legislative findings; providing definitions; establishing a pilot Local Government Utilities Assistance Program; providing for administration by the Department of Environmental Protection; providing for criteria for acquiring certain private water-wastewater utilities; providing for transfer of certain moneys from the Solid Waste Management Trust Fund to the program; providing for distribution of such moneys for certain purposes; providing for financial assistance for certain purposes under certain circumstances; requiring the Department of Environmental Protection to submit a report on the pilot program to the Governor and Legislature; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

On motion by Rep. Byrd, the House returned to consideration of the list of bills provided to the Members on April 26th.

Rep. Goodlette suggested the absence of a quorum. A quorum was present [Session Vote Sequence: 204].

CS/HB 1425—A bill to be entitled An act relating to law enforcement; amending s. 943.031, F.S.; renaming the Florida Violent Crime Council as the Florida Violent Crime and Drug Control Council; revising membership; providing circumstances for additional meetings; prescribing the duties and responsibilities of the Florida Violent Crime and Drug Control Council; providing statutory limits on funding of investigative efforts by the council; authorizing the Victim and Witness Protection Review Committee to conduct meetings by teleconference under certain circumstances; amending s. 943.17, F.S.; conforming a reference; amending s. 943.042, F.S.; renaming the Violent Crime Emergency Account as the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account; revising provisions relating to use of emergency supplemental funds; clarifying limits on disbursement of funds for certain purposes; requiring the Department of Law Enforcement to adopt rules pertaining to certain investigations; requiring reports by recipient agencies; providing circumstances for limitation or termination of funding or return of funds by recipient agencies; amending s. 943.0585, F.S., relating to court-ordered expunction of certain criminal history records; adding sexual offenses that require an offender to register with the state to the list of excluded offenses; amending s. 943.059, F.S., relating to court-ordered sealing of certain criminal history records; adding offenses relating to sexual offenses that require an offender to register with the state to the list of excluded offenses; amending s. 943.325, F.S.; permitting collection of approved biological specimens other than blood for purposes of DNA testing; permitting collection of specimens from certain persons who have never been incarcerated; limiting liability; authorizing use of force to collect specimens under certain circumstances; amending s. 760.40, F.S., to conform to changes made by s. 943.325, F.S.; creating s. 843.167, F.S.; prohibiting the interception of police communications for certain purposes; prohibiting disclosure of police communications; providing presumptions; providing penalties; amending s. 943.053, F.S.; providing clarification of the manner in which the Department of Law Enforcement determines the actual cost of producing criminal history information; creating s. 943.0582, F.S.; providing for prearrest, postarrest, or teen court diversion program expunction under certain circumstances; providing definitions; providing for retroactive effect; amending s. 985.3065, F.S.; providing for postarrest diversion programs; providing for expunction of certain records pursuant to s. 943.0582, F.S.; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1067—A bill to be entitled An act relating to public records; creating ss. 458.353 and 459.028, F.S.; providing exemptions from public records requirements for information contained in reports made by physicians and osteopathic physicians of adverse incidents occurring in office practice settings; providing for future review and repeal; providing findings of public necessity; providing an effective date.

—was read the second time by title.

The Committee on Health Regulation offered the following:

(Amendment Bar Code: 281165)

Amendment 1—On page 1, lines 22-25, and on page 2, lines 11-14, remove from the bill: *In addition, the information is not discoverable or admissible in a civil or administrative action, unless the action is a disciplinary proceeding by the department or the appropriate regulatory board.*

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

The Committee on State Administration offered the following:

(Amendment Bar Code: 663469)

Amendment 2—On page 1, lines 27 and 28, and

On page 2, lines 16 and 17
remove from the bill: *that is made available for the department or a regulatory board*

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

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

CS/HB 437 was taken up. On motion by Rep. Farkas, SB 654 was substituted for CS/HB 437. Under Rule 5.15, the House bill was laid on the table and—

SB 654—A bill to be entitled An act relating to pharmacy practice; creating s. 465.0075, F.S.; authorizing licensure of pharmacists by endorsement and providing requirements therefor, including a fee; providing for legislative review; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 235 was taken up. On motion by Rep. Prieguez, the rules were waived and CS for SB 1788 was substituted for HB 235. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 1788—A bill to be entitled An act relating to dentistry; amending s. 627.419, F.S.; providing for appeals from certain adverse determinations relating to dental service claims; amending s. 456.031, F.S.; providing an alternative by which licensees under ch. 466, F.S., may comply with a general requirement that they take domestic-violence education courses; amending s. 456.033, F.S.; providing an alternative by which such licensees may comply with a general requirement that they take AIDS/HIV education courses; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 1529—A bill to be entitled An act relating to controlled substances; authorizing the creation of a pilot program in Orange County to intercept illegal drug shipments through package delivery services; amending ss. 823.01 and 823.10, F.S.; providing that a person who willfully maintains a place where controlled substances are unlawfully kept, sold, or delivered commits the offense of keeping or maintaining a public nuisance; providing a penalty; amending s. 877.111, F.S., relating to inhalation, ingestion, sale, purchase, or transfer of certain harmful chemical substances; providing exceptions to applications of offenses relating to unlawful distribution, sale, purchase, transfer, or possession of nitrous oxide; amending s. 893.03, F.S., relating to controlled substance standards and schedules; adding 4-methoxymethamphetamine, 1,4-Butanediol, Gamma-butyrolactone (GBL), Gamma-hydroxybutyric acid (GHB), methaqualone, and mecloqualone to Schedule I; deleting 1,4-Butanediol and Gamma-hydroxybutyric acid (GHB) from Schedule II; adding drug products containing Gamma-hydroxybutyric acid (GHB) which are approved under the Federal Food, Drug, and Cosmetic Act to Schedule III; reenacting ss. 39.01(30)(a) and (g), 316.193(5), 327.35(5), 440.102(11)(b), 458.326(3), 465.035(2), 782.04(1)(a) and (4)(l), 817.563, 831.31(1)(a) and (2), 856.015(1)(d), 893.02(4), 893.0356(2)(a) and (5), 893.12(2)(b), (c), and (d), and 893.13(1)(a), (c), (d), (e), and (f), (2)(a), (4), (5)(a) and (b), and (7)(a), F.S., relating to harm to a child's health or welfare, driving under the influence, boating under the influence, drug-free workplace program requirements, treatment of intractable pain, facsimile prescriptions, medical review committee liability, murder, sale of substance in lieu of controlled substance, counterfeit controlled substances, open house parties, the definition of controlled substance, control of new substances by the Attorney General, contraband, and prohibited acts involving controlled substances, respectively, to incorporate the amendment to s. 893.03, F.S., in references thereto; amending s. 893.033, F.S., relating to listed chemicals; adding chloroephedrine and chloropseudoephedrine to the list of precursor chemicals; amending s. 893.135, F.S., relating to drug trafficking; creating offenses for trafficking in Gamma-butyrolactone (GBL) and lysergic acid diethylamide (LSD); providing penalties; amending scheduling references for trafficking in Gamma-hydroxybutyric acid (GHB) and 1,4-Butanediol; reenacting ss. 397.451(7), 414.095(1), 772.12(2)(a), 775.087(2) and (3), 782.04(1)(a), (3)(a), and (4)(a), 893.1351(1), 903.133, 907.041(4)(c), 921.0024(1)(b), 921.141(8), 921.142(2), 943.0585, and 943.059, F.S., relating to substance abuse service provider owners and directors, applicants for temporary cash assistance, drug dealer liability, possession or use of a weapon while trafficking, murder, lease or rent for trafficking purposes, denial of bail for certain felony convictions, pretrial detention, the punishment code worksheet, proceedings to determine sentence of death or life imprisonment for capital felonies, proceedings to determine sentence of death or life imprisonment for capital drug trafficking felonies, court-ordered expunction of criminal history records, and court-ordered sealing of criminal history records, respectively, to incorporate the amendment to s. 893.135, F.S., in references thereto; amending s. 921.0022, F.S.; adding offenses for trafficking in Gamma-butyrolactone (GBL) and lysergic acid diethylamide (LSD) to the sentencing guidelines; revising cross references; providing effective dates.

—was read the second time by title.

On motion by Rep. Simmons, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Simmons offered the following:

(Amendment Bar Code: 750387)

Amendment 1—On page 4, line 19, through page 5, line 2,
remove from the bill: all of said lines

and insert in lieu thereof:

823.10 Place where controlled substances are illegally kept, sold, or used declared a public nuisance.—

(1) Any store, shop, warehouse, dwelling house, building, *structure,* vehicle, ship, boat, vessel, or aircraft, or any place whatever, which is visited by persons for the purpose of unlawfully using any substance controlled under chapter 893 or any drugs as described in chapter 499, or which is used for the illegal keeping, selling, or delivering of the same, shall be deemed a public nuisance. No person shall keep or maintain such public nuisance or aid and abet another in keeping or maintaining such public nuisance. *Any person who willfully keeps or maintains a public nuisance or willfully aids or abets another in keeping or maintaining a public nuisance, and such public nuisance is a warehouse, structure, or building, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

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

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

HB 593 was taken up. On motion by Rep. Bowen, SB 810 was substituted for HB 593. Under Rule 5.15, the House bill was laid on the table and—

SB 810—A bill to be entitled An act relating to law enforcement officers; amending s. 901.252, F.S.; providing authority to municipal law enforcement officers to patrol property and facilities leased by the municipality but located outside its territorial jurisdiction; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 259 was taken up. On motion by Rep. Slosberg, SB 766 was substituted for HB 259. Under Rule 5.15, the House bill was laid on the table and—

SB 766—A bill to be entitled An act relating to driver's licenses; amending s. 322.28, F.S.; revising provisions relating to the penalty for

a second or subsequent conviction for operating a vehicle under the influence; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1691 was taken up. On motion by Rep. Atwater, SB 272 was substituted for HB 1691. Under Rule 5.15, the House bill was laid on the table and—

SB 272—A bill to be entitled An act relating to law enforcement officers; amending s. 817.564, F.S.; providing an exemption from civil or criminal liability for the sale of imitation controlled substances by law enforcement officers and other persons acting at their direction; providing an effective date.

—was read the second time by title.

Representative(s) Barreiro and Atwater offered the following:

(Amendment Bar Code: 893235)

Amendment 1 (with title amendment)—On page 1, line 31, of the bill

insert:

Section 2. *Law enforcement officers, civil or criminal action against; employer payment of costs and attorney's fees.—*

(1) For the purpose of this act, "law enforcement officer" means any person employed full time by any municipality or the state or any political subdivision thereof or any deputy sheriff whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, traffic, or highway laws of this state.

(2) The employing agency of any law enforcement officer shall pay the legal costs and reasonable attorney's fees for any law enforcement officer in any civil or criminal action commenced against such law enforcement officer in any court when the action arose out of the performance of the officer's official duties and:

(a) The plaintiff requests dismissal of the suit; or

(b) Such law enforcement officer is found to be not liable or not guilty.

And the title is amended as follows:

On page 1, line 7,

after the semicolon insert: defining "law enforcement officer"; requiring the employing agency to pay legal costs and attorney's fees under certain circumstances;

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

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

HB 569 was taken up. On motion by Rep. Garcia, the rules were waived and CS for SB 888 was substituted for HB 569. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 888—A bill to be entitled An act relating to violations of probation or community control; amending s. 948.06, F.S.; providing for tolling the period of probation or community control for an offender following the filing of an affidavit alleging a violation of probation or community control and issuance of a warrant; providing for a previously imposed period of probation or community control to be reinstated following dismissal of the affidavit; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

THE SPEAKER IN THE CHAIR

HB 811 was taken up. On motion by Rep. Clarke, SB 720 was substituted for HB 811. Under Rule 5.15, the House bill was laid on the table and—

SB 720—A bill to be entitled An act relating to criminal history records; amending ss. 943.0585, 943.059, F.S.; prohibiting a court from expunging or sealing the criminal history record of a person who has been found guilty of or pled guilty or nolo contendere to distributing or showing obscene material to a minor or who has been found guilty of or pled guilty or nolo contendere to certain activities involving computer pornography; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 261 was taken up. On motion by Rep. Jordan, the rules were waived and CS for SB 252 was substituted for HB 261. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 252—A bill to be entitled An act relating to release of employee information by employers; providing specified requirements of employers with respect to a background investigation of an applicant for employment or appointment as a full-time, part-time, or auxiliary law enforcement officer, correctional officer, or correctional probation officer; providing requirements relating to an authorization to release information; defining the terms "employing agency" and "employment information"; providing for injunctive relief; providing qualified immunity from civil liability for release; providing for fees to cover certain costs incurred by the employer; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1485—A bill to be entitled An act relating to sexual offenders; amending s. 947.1405, F.S.; prohibiting sexual offenders subject to conditional release supervision from living within a specified distance of certain places where children congregate; providing an effective date.

—was read the second time by title.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 211761)

Amendment 1—On page 1, line 29
remove from the bill: *1 mile* ~~1,000 feet~~

and insert in lieu thereof: 1,000 feet

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

The Council for Smarter Government offered the following:

(Amendment Bar Code: 623169)

Amendment 2 (with title amendment)—On page 3, between lines 8 and 9 of the bill

insert:

Section 2. A new section is added to chapter 794, Florida Statutes to read:

794.xxx Unlawful place of residence for persons convicted of certain sex offenses.—

(1) It is unlawful for any person who has been convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, to reside within 1,000 feet of any school, day care center, park, or playground. Any person violating this section whose conviction for s. 794.011, s. 794.05, s.800.04, s. 827.071, or s. 847.0145, was classified as a felony of the first degree or higher, commits a felony of the third degree, punishable as provided in s. 775.082 and 775.083. Any person violating this section whose conviction for s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, was classified as a felony of the second or third degree commits a misdemeanor of the first degree punishable as provided in s. 775.082 and 775.083.

(2) This section shall apply to any person convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145 for offenses which occur on or after the October 1, 2001.

And the title is amended as follows:

On page 1, line 6, after the semicolon

insert: creating a new section to chapter 794; prohibiting persons convicted of certain sex crimes from residing within 1,000 feet of a school, day care center, park, or playground;

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

The Council for Smarter Government offered the following:

(Amendment Bar Code: 931141)

Amendment 3 (with title amendment)—On page 3, between lines 8 and 9 of the bill

insert:

Section 2. A new section is added to chapter 794, Florida Statutes to read:

794.xxx Unlawful place of residence for persons convicted of certain sex offenses.—

(1) It is unlawful for any person who has been convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, to reside within 1,000 feet of any school, day care center, park, or playground. Any person violating this section whose conviction for s. 794.011, s. 794.05, s.800.04, s. 827.071, or s. 847.0145, was classified as a felony of the first degree or higher, commits a felony of the third degree, punishable as provided in s. 775.082 and 775.083. Any person violating this section whose conviction for s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, was classified as a felony of the second or third degree commits a misdemeanor of the first degree punishable as provided in s. 775.082 and 775.083.

(2) This section shall apply retroactively to any person convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145 regardless of when the offense occurred.

And the title is amended as follows:

On page 1, line 6, after the semicolon

insert: creating a new section to chapter 794; prohibiting persons convicted of certain sex crimes from residing within 1,000 feet of a school, day care center, park, or playground;

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

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

CS/HB 973—A bill to be entitled An act relating to totally and permanently disabled persons; amending s. 196.202, F.S.; reducing the number of physicians required to certify a total and permanent disability for certain purposes; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1089 was taken up. On motion by Rep. Bilirakis, the rules were waived and SB 1424 was substituted for HB 1089. Under Rule 5.15, the House bill was laid on the table and—

SB 1424—A bill to be entitled An act relating to real estate professionals; amending s. 475.25, F.S.; providing an exception to provisions governing the return of escrowed personal property; amending s. 475.22, F.S.; requiring supervisors of registered assistant real estate appraisers to sign appraisals and make certain disclosures; creating s. 475.6221, F.S.; requiring registered assistant real estate appraisers to be supervised by licensed or certified appraisers; providing supervisory guidelines; prohibiting direct payments for services to registered assistant real estate appraisers with the supervising appraiser's agreement; providing an effective date.

—was read the second time by title.

Representative(s) Bilirakis offered the following:

(Amendment Bar Code: 412311)

Amendment 1—In the title, on page 1, line 5,
remove from the bill: 475.22

and insert in lieu thereof: 475.622

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

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

HB 1833 was taken up. On motion by Rep. Crow, the rules were waived and CS for SB 178 was substituted for HB 1833. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 178—A bill to be entitled An act relating to duration of real property liens; amending s. 55.10, F.S.; revising the period of duration of certain liens; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1207 was taken up. On motion by Rep. Carassas, SB 1126 was substituted for HB 1207. Under Rule 5.15, the House bill was laid on the table and—

SB 1126—A bill to be entitled An act relating to nonprofit civic organizations; amending s. 561.422, F.S.; authorizing nonprofit civic organizations to purchase alcoholic beverage permits for three events per calendar year; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 767 was taken up. On motion by Rep. Brown, the rules were waived and CS for CS for SB 108 was substituted for CS/HB 767. Under Rule 5.15, the House bill was laid on the table and—

CS for CS for SB 108—A bill to be entitled An act relating to the transfer of structured settlements; specifying the purpose of the act; providing definitions; providing requirements for the direct or indirect transfer of structured-settlement-payment rights; requiring that any such transfer be approved by a court; requiring that the court make certain findings with respect to the transfer; authorizing an interested party to file an objection to a proposed transfer; providing requirements for an order approving a transfer; requiring that an obligor make certain disclosures to a claimant in negotiating a settlement of claims; requiring a transferee to provide certain notice with respect to a proposed transfer of structured-settlement-payment rights; providing for penalties to be imposed for certain violations of the act; authorizing the state attorney to bring an action for injunctive relief; providing an effective date.

—was read the second time by title.

Representative(s) Brown and Bennett offered the following:

(Amendment Bar Code: 234485)

Amendment 1 (with title amendment)—On page 1, line 24,

insert:

Section 1. Subsections (8), (9), (10), (14), and (15) of section 626.9911, Florida Statutes, are amended to read:

626.9911 Definitions.—As used in this act, the term:

(8) "Related provider trust" means a *titling trust or other* trust established by a *licensed* viatical settlement provider *or financing entity* for the sole purpose of *holding the ownership or beneficial interest in purchased policies in connection with a financing transaction* ~~entering~~

~~into or owning viatical settlement contracts~~. *The trust must have a written agreement with a licensed viatical settlement provider or financing entity under which the licensed viatical settlement provider or financing entity is responsible for insuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files relating to viatical settlement transactions available to the department as if those records and files were maintained directly by the licensed viatical settlement provider.* This term does not include an independent third-party trustee or escrow agent or a trust that does not enter into agreements with a viator. A related provider trust shall be subject to all provisions of this act that apply to the viatical settlement provider who established the related provider trust, except s. 626.9912, which shall not be applicable. A viatical settlement provider may establish no more than one related provider trust, and the sole trustee of such related provider trust shall be the viatical settlement provider licensed under s. 626.9912. The name of the licensed viatical settlement provider shall be included within the name of the related provider trust.

(9) "Viatical settlement purchase agreement" means a contract or agreement, entered into by a viatical settlement purchaser, to which the viator is not a party, to purchase a life insurance policy or an interest in a life insurance policy, which is entered into for the purpose of deriving an economic benefit. *The term also includes purchases made by viatical settlement purchasers from any person other than the provider who effectuated the viatical settlement contract.*

(10) "Viatical settlement purchaser" means a person *who gives a sum of money as consideration for a life insurance policy or an equitable or legal interest in the death benefits of a life insurance policy that has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit, including purchases made in the secondary market, that is, purchases from any person other than the provider who effectuated the viatical settlement contract or an entity affiliated with the provider. The term does not include*~~, other than~~ a licensee under this part, an accredited investor as defined in Rule 501, Regulation D of the Securities Act Rules, or a qualified institutional buyer as defined by Rule 144(a) of the Federal Securities Act, ~~or~~ a special purpose entity*, a financing entity, or a contingency insurer* ~~who gives a sum of money as consideration for a life insurance policy or an equitable or legal interest in the death benefits of a life insurance policy which has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit~~. The above references to Rule 501, Regulation D and Rule 144(a) of the Federal Securities Act are used strictly for defining purposes and shall not be interpreted in any other manner. Any person who claims to be an accredited investor shall sign an affidavit stating that he or she is an accredited investor, the basis of that claim, and that he or she understands that as an accredited investor he or she will not be entitled to certain protections of the Viatical Act. This affidavit must be kept with other documents required to be maintained by this act.

(14) "Special purpose entity" means an entity established by a licensed viatical settlement provider *or by a financing entity*, which may be a corporation, partnership, trust, *limited liability company,* or other similar entity formed solely to *provide, either directly or indirectly, access to* ~~act as a vehicle to permit a lender to the provider to access~~ institutional capital markets *to a viatical settlement* ~~for the~~ provider *or financing entity*. A special purpose entity shall not enter into a viatical settlement contract or a viatical settlement purchase agreement.

(15) "Financing entity" means an underwriter, placement agent, lender, purchaser of securities, or purchaser of a policy or certificate from a viatical settlement provider, credit enhancer, or any *entity* ~~person~~ that ~~may be a party to a viatical settlement contract and that~~ has direct ownership in a policy or certificate that is the subject of a viatical settlement contract, but whose *principal* ~~sole~~ activity related to the transaction is providing funds or credit enhancement to effect the viatical settlement *or the purchase of one or more viatical policies* and who has an agreement in writing with *one or more licensed viatical settlement providers to finance the acquisition of viatical settlement contracts* ~~a licensed viatical settlement provider to act as a participant in a financing transaction~~. The term does not include a nonaccredited investor*, a viatical settlement purchaser,* or other natural person. *A financing entity may not enter into a viatical settlement contract.*

Section 2. Subsection (1) of section 626.9921, Florida Statutes, is amended to read:

626.9921 Filing of forms; required procedures; approval.—

(1) A viatical settlement contract form, viatical settlement purchase agreement form, escrow form, or related form may be used in this state only after ~~the viatical settlement provider or any related provider trust has filed~~ the form *has been filed* with the department and only after the form has been approved by the department.

Section 3. Subsection (3) is added to section 626.99235, Florida Statutes, to read:

626.99235 Disclosures to viatical settlement purchasers; misrepresentations.—

(3) The requirements of this section also apply to purchases made from any person other than the provider who effectuated the viatical settlement contract which are the subject of a viatical settlement purchase agreement.

Section 4. Section 626.99236, Florida Statutes, is amended to read:

626.99236 Further disclosures to viatical settlement purchasers.—

(1) No later than 5 days prior to the assignment, transfer, sale, devise, or bequest of the death benefit or ownership of all or a portion of the insurance policy or certificate of insurance to the purchaser, the viatical settlement provider *and the viatical settlement sales agent, themselves* ~~itself~~ or through another person, shall provide in writing the following disclosures to any viatical settlement purchaser:

(a) All the life expectancy certifications obtained by the provider.

(b) The name and address of the insurance company, the policy number, and the date of original issue of the viaticated policy.

(c) The experience and qualifications of the person issuing the life expectancy certification, and that person's relationship to the viatical settlement provider, the viatical settlement broker, the viatical settlement sales agent, and the viator.

(d) The name and address of any person providing escrow services, and that person's relationship to the viatical settlement provider, the viatical settlement broker, the viatical settlement sales agent, and the viator.

(e) The type of life insurance policy offered or sold, including a statement as to whether the policy is whole life, term life, universal life, or a group policy certificate; a statement as to whether the policy is in lapse status or has lapsed in the last 2 years; and a statement as to whether the purchaser is entitled to benefits contained in the policy other than the death benefit of the policy.

(f) The procedure to be used by the provider to provide the status of the health condition of the insured to a purchaser.

(2) The viatical settlement purchase agreement is voidable by the purchaser at any time within 3 days after the disclosures mandated by this section are received by the purchaser.

(3) At the time the disclosures in subsection (1) are made, the viatical settlement purchaser shall be advised to seek independent financial advice from a person not compensated by the viatical settlement provider or viatical settlement broker or the viatical settlement sales agent. The viatical settlement purchaser shall sign an affidavit that he or she has received the disclosures and understands their importance.

(4) A viatical settlement purchase transaction, which involves a purchase from any person other than the provider who effectuated the viatical settlement contract that is the subject of a viatical settlement purchase agreement, may be completed only through the use of an independent third-party trustee or escrow agent. All funds to be paid by

the purchaser must be deposited by the purchaser with the independent third-party trustee or escrow agent. The independent third-party trustee or escrow agent shall not release the deposited funds to the seller until after the 3-day voidable period established by subsection (2) has expired.

(5) The requirements of subsections (1), (2), and (3) also apply to purchases made from any person other than the provider who effectuated the viatical settlement contract that are the subject of a viatical settlement purchase agreement.

Section 5. Subsection (10) is added to section 626.9924, Florida Statutes, to read:

626.9924 Viatical settlement contracts; procedures; rescission.—

(10) The viatical settlement provider who effectuated the viatical settlement contract with the viator (the "initial provider") is responsible for tracking the insured, including but not limited to, keeping track of the insured's whereabouts and health status, submission of death claims or assisting the beneficiary in the submission of death claims, and the status of the payment of premiums until the death of the insured. This responsibility may be contracted out to a third party; however, the ultimate responsibility remains with the initial provider. This responsibility continues with the initial provider, notwithstanding any transfers of the viaticated policy in the secondary market. This subsection applies only to those viaticated policies that are or are to become the subject of viatical settlement purchase agreements.

Section 6. Subsection (3) is added to section 626.99245, Florida Statutes, to read:

626.99245 Conflict of regulation of viaticals.—

(3) This section does not affect the requirement of ss. 626.9911(6) and 626.9912(1) that a viatical settlement provider doing business from this state must obtain a viatical settlement license from the department. As used in this subsection, the term "doing business from this state" includes effectuating viatical settlement contracts and effectuating viatical settlement purchase agreements from offices in this state, regardless of the state of residence of the viator or the viatical settlement purchaser.

And the title is amended as follows:

On page 1, lines 2 and 3,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: An act relating to financial settlements; amending s. 626.9911, F.S.; revising definitions; amending s. 626.9921, F.S.; providing for approval of forms; amending s. 626.99235, F.S.; providing for applicability; amending s. 626.99236, F.S.; requiring certain purchases to be handled by an independent third-party trustee; amending s. 626.9924, F.S.; revising procedures for tracking the insured; amending s. 626.99245, F.S.; clarifying the application of licensing requirements to viatical settlement providers; specifying the purpose of the act;

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

On motion by Rep. Brown, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Brown offered the following:

(Amendment Bar Code: 983481)

Amendment 2 (with title amendment)—On page 5, line 1 through page 11, line 29
remove from the bill: all of said lines

and insert in lieu thereof: *(p) "Structured-settlement-payment rights" means rights to receive periodic payments, including lump-sum payments under a structured settlement, whether from the structured-settlement obligor or the annuity issuer, if:*

1. The payee or any other interested party is domiciled in this state;

2. The structured settlement agreement was approved by a court of this state; or

3. The settled claim was pending before the courts of this state when the parties entered into the structured-settlement agreement.

(q) "Terms of the structured settlement" means the terms of the structured-settlement agreement; the annuity contract; a qualified-assignment agreement; or an order or approval of a court or other government authority authorizing or approving the structured settlement.

(r) "Transfer" means a sale, assignment, pledge, hypothecation, or other form of alienation or encumbrance made by a payee for consideration.

(s) "Transfer agreement" means the agreement providing for transfer of structured-settlement-payment rights from a payee to a transferee.

(t) "Transferee" means a person who is receiving or who will receive structured-settlement-payment rights resulting from a transfer.

(3) CONDITIONS TO TRANSFERS OF STRUCTURED-SETTLEMENT-PAYMENT RIGHTS AND STRUCTURED-SETTLEMENT AGREEMENTS.—

(a) A direct or indirect transfer of structured-settlement-payment rights is not effective and a structured-settlement obligor or annuity issuer is not required to make a payment directly or indirectly to a transferee of structured-settlement-payment rights unless the transfer is authorized in advance in a final order by a court of competent jurisdiction which is based on the written express findings by the court that:

1. The transfer complies with this section and does not contravene other applicable law;

2. At least 10 days before the date on which the payee first incurred an obligation with respect to the transfer, the transferee provided to the payee a disclosure statement in bold type, no smaller than 14 points in size, which specifies:

a. The amounts and due dates of the structured-settlement payments to be transferred;

b. The aggregate amount of the payments;

c. The discounted present value of the payments, together with the discount rate used in determining the discounted present value;

d. The gross amount payable to the payee in exchange for the payments;

e. An itemized listing of all brokers' commissions, service charges, application fees, processing fees, closing costs, filing fees, referral fees, administrative fees, legal fees, and notary fees and other commissions, fees, costs, expenses, and charges payable by the payee or deductible from the gross amount otherwise payable to the payee;

f. The net amount payable to the payee after deducting all commissions, fees, costs, expenses, and charges described in sub-subparagraph e.;

g. The quotient, expressed as a percentage, obtained by dividing the net payment amount by the discounted present value of the payments, which must be disclosed in the following statement: "The net amount that you will receive from us in exchange for your future structured-settlement payments represent __ percent of the estimated current value of the payments based upon the discounted value using the applicable federal rate";

h. The effective annual interest rate, which must be disclosed in the following statement: "Based on the net amount that you will receive from us and the amounts and timing of the structured-settlement payments that you are turning over to us, you will, in effect, be paying interest to us at a rate of __ percent per year"; and

i. The amount of any penalty and the aggregate amount of any liquidated damages, including penalties, payable by the payee in the event of a breach of the transfer agreement by the payee;

3. The payee has established that the transfer is in the best interests of the payee, taking into account the welfare and support of the payee's dependents;

4. The payee has received, or waived his or her right to receive, independent professional advice regarding the legal, tax, and financial implications of the transfer;

5. The transferee has given written notice of the transferee's name, address, and taxpayer identification number to the annuity issuer and the structured-settlement obligor and has filed a copy of the notice with the court;

6. The transfer agreement provides that if the payee is domiciled in this state, any disputes between the parties will be governed in accordance with the laws of this state and that the domicile state of the payee is the proper venue to bring any cause of action arising out of a breach of the agreement; and

7. The court has determined that the net amount payable to the payee is fair, just, and reasonable under the circumstances then existing.

(b) If a proposed transfer would contravene the terms of the structured settlement, upon the filing of a written objection by any interested party and after considering the objection and any response to it, the court may grant, deny, or impose conditions upon the proposed transfer which the court deems just and proper given the facts and circumstances and in accordance with established principles of law. Any order approving a transfer must require that the transferee indemnify the annuity issuer and the structured-settlement obligor for any liability, including reasonable costs and attorney's fees, which arises from compliance by the issuer or obligor with the order of the court.

(c) Any provision in a transfer agreement which gives a transferee power to confess judgment against a payee is unenforceable to the extent that the amount of the judgment would exceed the amount paid by the transferee to the payee, less any payments received from the structured-settlement obligor or payee.

(d) In negotiating a structured settlement of claims brought by or on behalf of a claimant who is domiciled in this state, the structured-settlement obligor must disclose in writing to the claimant or the claimant's legal representative all of the following information that is not otherwise specified in the structured-settlement agreement:

1. The amounts and due dates of the periodic payments to be made under the structured-settlement agreement. In the case of payments that will be subject to periodic percentage increases, the amounts of future payments may be disclosed by identifying the base payment amount, the amount and timing of scheduled increases, and the manner in which increases will be compounded;

2. The amount of the premium payable to the annuity issuer;

3. The discounted present value of all periodic payments that are not life-contingent, together with the discount rate used in determining the discounted present value;

4. The nature and amount of any costs that may be deducted from any of the periodic payments;

5. Where applicable, that any transfer of the periodic payments is prohibited by the terms of the structured settlement and may otherwise be prohibited or restricted under applicable law; and

6. That any transfer of the periodic payments by the claimant may subject the claimant to serious adverse tax consequences.

(4) JURISDICTION; PROCEDURE FOR APPROVAL OF TRANSFERS.—At least 20 days before the scheduled hearing on an application for authorizing a transfer of structured-settlement-payment rights under this section, the transferee must file with the court and all interested parties a notice of the proposed transfer and the application for its authorization. The notice must include:

(a) A copy of the transferee's application to the court;

(b) A copy of the transfer agreement;

(c) A copy of the disclosure statement required under subsection (3);

(d) Notification that an interested party may support, oppose, or otherwise respond to the transferee's application, in person or by counsel, by submitting written comments to the court or by participating in the hearing; and

(e) Notification of the time and place of the hearing and notification of the manner in which and the time by which any written response to the application must be filed in order to be considered by the court. A written response to an application must be filed within 15 days after service of the transferee's notice.

(5) WAIVER PROHIBITED; NO PENALTIES INCURRED.—

(a) The provisions of this section may not be waived.

(b) If a transfer of structured-settlement-payment rights fails to satisfy the conditions of subsection (3), the payee who proposed the transfer does not incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee.

(6) NONCOMPLIANCE.—

(a) If a transferee violates the requirements for stipulating the discount and finance charge provided for in subsection (3), neither the transferee nor any assignee may collect from the transferred payments, or from the payee, any amount in excess of the net advance amount, and the payee may recover from the transferee or any assignee:

1. A refund of any excess amounts previously received by the transferee or any assignee;

2. A penalty in an amount determined by the court, but not in excess of three times the aggregate amount of the discount and finance charge; and

3. Reasonable costs and attorney's fees.

(b) If the transferee violates the disclosure requirements in subsection (3), the transferee and any assignee are liable to the payee for:

1. A penalty in an amount determined by the court, but not in excess of three times the amount of the discount and finance charge; and

2. Reasonable costs and attorney's fees.

(c) A transferee or assignee is not liable for any penalty in any action brought under this section if the transferee or assignee establishes by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the transferee's maintenance of procedures reasonably designed to avoid such errors.

(d) Notwithstanding any other law, an action may not be brought under this section more than 1 year after the due date of:

1. The last transferred structured-settlement payment, in the case of a violation of the requirements for stipulating the discount and finance charge provided for in subsection (3).

2. The first transferred structured-settlement payment, in the case of a violation of the disclosure requirements of subsection (3).

(e) When any interested party has reason to believe that any transferee has violated this section, any interested party may bring a civil action for injunctive relief, penalties, and any other relief that is appropriate to secure compliance with this section.

And the title is amended as follows:

On page 1, lines 19-20
remove from the title of the bill: all of said lines

and insert in lieu thereof: violations of the act; authorizing an interested party to bring an action for injunctive

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

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

HB 791 was taken up. On motion by Rep. Hogan, the rules were waived and SB 150 was substituted for HB 791. Under Rule 5.15, the House bill was laid on the table and—

SB 150—A bill to be entitled An act relating to property exempt from legal process; amending s. 222.25, F.S.; exempting certain debtor's interests from attachment, garnishment, or legal process; providing that such exemption does not apply to debts owed for child support or spousal support; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/CS/HB 615 was taken up. On motion by Rep. Kallinger, the rules were waived and SB 1516 was substituted for CS/CS/HB 615. Under Rule 5.15, the House bill was laid on the table and—

SB 1516—A bill to be entitled An act relating to surety bonds; amending ss. 235.32, 255.05, F.S.; prohibiting public entities from directing that contractors building public facilities obtain surety bonds from a specific agent or bonding company; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 623—A bill to be entitled An act relating to government accountability and legal proceedings; amending s. 11.066, F.S.; providing that property of the state or a monetary recovery made on behalf of the state is not subject to a lien; amending s. 112.3175, F.S.; providing that certain contracts executed in violation of part III of ch. 112, F.S., are presumed void or voidable; amending s. 287.058, F.S.; clarifying current requirement that contractor on certain state contracts must allow access to public records unless the records are exempt; amending s. 287.059, F.S.; providing additional requirements for contracts for private attorney services; providing requirements for contingency fee contracts; providing for binding arbitration in fee disputes; providing requirements if multiple law firms are parties to a contract; providing requirements for private attorneys with respect to maintaining documents and records and making such documents and records available for inspection; creating s. 60.08, F.S.; providing for injunctions without bond when sought by the state or its agencies; amending s. 86.091, F.S.; providing that the State of Florida, the Governor, any state department, agency, officer, or employee shall not be made a party in certain proceedings; amending s. 16.01, F.S.; clarifying that certain provisions are not intended to authorize the joinder of the Attorney General as party; amending s. 48.121, F.S.; clarifying that the section is not intended to authorize the joinder of the Attorney General or a state attorney as a party; amending s. 45.062, F.S.; providing additional requirements with respect to notification of certain settlements or orders; providing that certain settlements or orders shall be contingent upon and subject to legislative appropriation or statutory amendment; providing for the disposition of funds; providing legislative intent; amending s. 216.023, F.S.; providing for an inventory of all litigation in which an agency is involved which may require additional appropriations to the agency or amendments to the law under which the agency operates as a part of legislative budget requests; amending s. 284.385, F.S.; revising provisions relating to the reporting and handling of claims by the Department of Insurance covered by the State Risk Management Trust Fund; providing for severability; providing an effective date.

—was read the second time by title.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 293303)

Amendment 1—On page 4, line 17 after the word "from", of the bill

insert: *s. 24, (a) Art. I of the State Constitution and*

The Council for Smarter Government offered the following:

(Amendment Bar Code: 342625)

Amendment 2 (with title amendment)—On page 13, between lines 23 and 24, of the bill

insert: Section 8. Sections 45.051, Florida Statutes, is amended to read : 45.051 Execution of supersedeas bond when required of the state or its political subdivisions.—

(1) When a supersedeas bond is required by the appellate court under Rule 9.310(b)(2), Florida Rules of Appellate Procedure or an appeal or other proceeding is taken in any court and there is no court rule or statute exempting the parties from giving supersedeas, cost, or other required bond, the parties are authorized to make and execute the required bond with a corporate surety thereon duly licensed to do business in this state. The premium or other cost for the bond may be paid from the general necessary and regular appropriation of the party taking the appeal, in the case of the state or any of its officers, boards, commissioners or other agencies, and from the county general fund, district school general fund, or otherwise as the case may be, in the case of a political subdivision of the state or any of its officers, boards, commissions or other agencies. The officers of the state and its political subdivisions and the executive officers of their boards, commissions, and other agencies aforesaid, are authorized to make and execute the bonds on behalf of the parties.

(2) In connection with an appeal taken by a state employee or official of a judgement against that employee or official in an individual capacity, as part of the legal defense being provided by the state risk management program, the Division of Risk Management may enter into an indemnification agreement for the purpose of securing an appellate supersedeas bond, provided that, under any such agreement, the liability of the State of Florida is limited to the amount of the judgment being appealed and any costs imposed by law or the appropriate court.

And the title is amended as follows:

On page 2, line 5,
remove from the title of the bill: said line

and insert in lieu thereof: party; amending s. 45.051, F.S.; authorizing the Division of Risk Management to enter into indemnification agreements for supersedeas bonds; amending s. 45.062.; providing

On motion by Rep. Mack, the council amendments failed of adoption *en bloc*.

On motion by Rep. Mack, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Mack offered the following:

(Amendment Bar Code: 264393)

Amendment 3 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsection (5) is added to section 11.066, Florida Statutes, to read:

11.066 Suits seeking monetary damages against the state or its agencies; payment of judgments; appropriations required.—

(5) The property of the state, the property of any state agency, or any monetary recovery made on behalf of the state or any state agency is not subject to a lien of any kind.

Section 2. Section 112.3175, Florida Statutes, is amended to read:

112.3175 Remedies; contracts voidable.—

(1) Any contract *that* ~~which~~ has been executed in violation of this part is voidable:

(a)~~(1)~~ By any party to the contract.

(b)~~(2)~~ In any circuit court, by any appropriate action, by:

1.~~(a)~~ The commission.

2.~~(b)~~ The Attorney General.

3.~~(c)~~ Any citizen materially affected by the contract and residing in the jurisdiction represented by the officer or agency entering into such contract.

(2) Any contract that has been executed in violation of this part is presumed void with respect to any former employee or former public official of a state agency and is voidable with respect to any private-sector third party who employs or retains in any capacity such former agency employee or former public official.

Section 3. Subsection (1) of section 287.058, Florida Statutes, is amended to read:

287.058 Contract document.—

(1) Every procurement of contractual services in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO, except for the providing of health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured state employees or the providing of other benefits as required by the provisions of chapter 440, shall be evidenced by a written agreement embodying all provisions and conditions of the procurement of such services, which provisions and conditions shall, where applicable, include, but shall not be limited to:

(a) A provision that bills for fees or other compensation for services or expenses be submitted in detail sufficient for a proper preaudit and postaudit thereof.

(b) A provision that bills for any travel expenses be submitted in accordance with s. 112.061. A state agency may establish rates lower than the maximum provided in s. 112.061.

(c) A provision allowing unilateral cancellation by the agency for refusal by the contractor to allow public access to all documents, papers, letters, or other material ~~subject to the provisions of chapter 119 and~~ made or received by the contractor in conjunction with the contract*, unless the records are exempt from s. 24, (a) Art. I of the State Constitution and s. 119.07(1).*

(d) A provision dividing the contract into units of deliverables, which shall include, but not be limited to, reports, findings, and drafts, that must be received and accepted in writing by the contract manager prior to payment.

(e) A provision specifying the criteria and the final date by which such criteria must be met for completion of the contract.

(f) A provision specifying that the contract may be renewed on a yearly basis for a period of up to 2 years after the initial contract or for a period no longer than the term of the original contract, whichever period is longer, specifying the terms under which the cost may change as determined in the invitation to bid or request for proposals, and specifying that renewals shall be contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds.

In lieu of a written agreement, the department may authorize the use of a purchase order for classes of contractual services, provided the provisions of paragraphs (a)-(f) are included in the purchase order, invitation to bid, or request for proposals. The purchase order shall include an adequate description of the services, the contract period, and the method of payment. In lieu of printing the provisions of paragraphs (a)-(f) in the contract document or purchase order, agencies may incorporate the requirements of paragraphs (a)-(f) by reference.

Section 4. Section 287.059, Florida Statutes, is amended to read:

287.059 Private attorney services.—

(1) For purposes of this section, the term "agency" or "state agency" includes state officers, departments, boards, commissions, divisions, bureaus, councils, and units of organization, however designated, of the executive branch of state government, community and junior colleges, and multicounty special districts exclusive of those created by interlocal agreement or which have elected governing boards.

(2) No agency shall contract for private attorney services without the prior written approval of the Attorney General, except that such written approval is not required for private attorney services:

(a) Procured by the Executive Office of the Governor or any department under the exclusive jurisdiction of a single Cabinet officer.

(b) Provided by legal services organizations to indigent clients.

(c) Necessary to represent the state in litigation involving the State Risk Management Trust Fund pursuant to part II of chapter 284.

(d) Procured by the Board of Regents and the universities of the State University System.

(e) Procured by community and junior colleges and multicounty special districts.

(f) Procured by the Board of Trustees for the Florida School for the Deaf and the Blind.

(3) An agency requesting approval for the use of private attorney services shall first offer to contract with the Department of Legal Affairs for such attorney services at a cost pursuant to mutual agreement. The Attorney General shall decide on a case-by-case basis to accept or decline to provide such attorney services as staffing, expertise, or other legal or economic considerations warrant. If the Attorney General declines to provide the requested attorney services, the Attorney General's written approval shall include a statement that the private attorney services requested cannot be provided by the office of the Attorney General or that such private attorney services are cost-effective in the opinion of the Attorney General. The Attorney General shall not consider political affiliation in making such decision. The office of the Attorney General shall respond to the request of an agency for prior written approval within 10 working days after receiving such request. The Attorney General may request additional information necessary for evaluation of a request. The Attorney General shall respond to the request within 10 working days after receipt of the requested information. Those agencies exempt from written approval from the Attorney General, as described in paragraphs (2)(a)-(f), may contract with the Department of Legal Affairs for attorney services. The Attorney General shall determine on a case-by-case basis whether to provide such attorney services as staffing, expertise, or other legal considerations warrant. The Attorney General may adopt, by rule, a form on which agencies requesting written approval for private attorney services shall provide information concerning:

(a) The nature of the attorney services to be provided and the issues involved.

(b) The need for use of private attorneys, rather than agency staff attorneys, utilizing the criteria provided in subsection *(9)* ~~(8)~~.

(c) The criteria by which the agency selected the private attorney or law firm it proposes to employ, utilizing the criteria provided in subsection *(10)* ~~(9)~~.

(d) Competitive fees for similar attorney services.

(e) The agency's analysis estimating the number of hours for attorney services, the costs, the total contract amount, and, when appropriate, a risk or cost-benefit analysis.

(f) Which partners, associates, paralegals, research associates, or other personnel will be used, and how their time will be billed to the agency.

(g) Any other information which the Attorney General deems appropriate for the proper evaluation of the need for such private attorney services.

(4) When written approval has been received from the Attorney General, *the general counsel for the agency shall review the form and legality of the contract for private attorney services and shall indicate his or her approval by signing the contract* ~~written final approval must be obtained from the agency head, or designee of the agency head, prior to the contracting for private attorney services~~. *After a contract is approved and signed by the general counsel, in order to effectuate that contract the agency head must sign the contract. The agency head shall also maintain custody of the contract.*

(5) The agency head or a designee shall give written approval prior to contracting for private attorney services for all agencies exempt from written approval of the Attorney General as described in paragraphs (2)(a)-(f).

(6) The Attorney General shall, by rule, adopt a standard fee schedule for private attorney services using hourly rates or an alternative billing methodology. The Attorney General shall take into consideration the following factors:

(a) Type of controversy involved and complexity of the legal services needed.

(b) Geographic area where the attorney services are to be provided.

(c) Novelty of the legal questions involved.

(d) Amount of experience desired for the particular kind of attorney services to be provided.

(e) Other factors deemed appropriate by the Attorney General.

(f) The most cost-effective or appropriate billing methodology.

(7)(a) A contingency fee contract must be commercially reasonable. As used in this subsection, the term "commercially reasonable" means no more than the amount permissible pursuant to rule 4-1.5 of the rules regulating The Florida Bar and case law interpreting that rule.

(b) If the amount of the fee is in dispute, the counsel retained by the state shall participate in mandatory binding arbitration. Payment of all attorney's fees is subject to appropriation. Attorney's fees shall be forfeited if, during the pendency of the case, the counsel retained by the state takes a public position that is adverse to the state's litigation or settlement posture.

(8)~~(7)~~ All agencies, when contracting for private attorney services, must use the standard fee schedule for private attorney services as established pursuant to this section unless the head of the agency, or his or her designee, waives use of the schedule and sets forth the reasons for deviating from the schedule in writing to the Attorney General. Such waiver must demonstrate necessity based upon criteria for deviation from the schedule which the Attorney General shall establish by rule.

(9)~~(8)~~ The Attorney General shall develop guidelines that may be used by agencies to determine when it is necessary and appropriate to seek private attorney services in lieu of staff attorney services.

(10)~~(9)~~ Agencies are encouraged to use the following criteria when selecting outside firms for attorney services:

(a) The magnitude or complexity of the case.

(b) The firm's ratings and certifications.

(c) The firm's minority status.

(d) The firm's physical proximity to the case and the agency.

(e) The firm's prior experience with the agency.

(f) The firm's prior experience with similar cases or issues.

(g) The firm's billing methodology and proposed rate.

(h) The firm's current or past adversarial position, or conflict of interest, with the agency.

(i) The firm's willingness to use resources of the agency to minimize costs.

(11)~~(10)~~ The Attorney General shall develop a standard addendum to every contract for attorney services that must be used by all agencies, unless waived by the Attorney General, describing in detail what is expected of both the contracted private attorney and the contracting agency. *The addendum must address the internal system of governance if multiple law firms are parties to the contract and must, at a minimum, require that each firm identify one member who is authorized to legally bind the firm.*

(12)~~(11)~~ Contracts for attorney services shall be originally executed for 1 year only, except that multiyear contracts may be entered into provided they are subject to annual appropriations and annual written approval from the Attorney General as described in subsection (3). Any amendments to extend the contract period or increase the billing rate or overall contract amount shall be considered new contracts for purposes of the written approval process described in subsection (3).

(13)~~(12)~~ The office of the Attorney General shall periodically prepare and distribute to agencies a roster by geographic location of private attorneys under contract with agencies, their fees, and primary area of legal specialization.

(14)~~(13)~~ The office of the Attorney General is authorized to competitively bid and contract with one or more court reporting services, on a circuitwide basis, on behalf of all state agencies in accordance with s. 287.057(2). The office of the Attorney General shall develop requests for proposal for court reporter services in consultation with the Florida Court Reporters Association. All agencies shall utilize the contracts for court reporting services entered into by the Office of the Attorney General where in force, unless otherwise ordered by a court or unless an agency has a contract for court reporting services executed prior to May 5, 1993.

(15)~~(14)~~ The Attorney General's office may, by rule, adopt standard fee schedules for court reporting services for each judicial circuit in consultation with the Florida Court Reporters Association. Agencies, when contracting for court reporting services, must use the standard fee schedule for court reporting services established pursuant to this section, provided no state contract is applicable or unless the head of the agency or his or her designee waives use of the schedule and sets forth the reasons for deviating from the schedule in writing to the Attorney General. Such waiver must demonstrate necessity based upon criteria for deviation from the schedule which the Attorney General shall establish by rule. Any proposed fee schedule under this section shall be submitted to the Governor, the Speaker of the House of Representatives, the President of the Senate, and the Chief Justice of the Florida Supreme Court at least 60 days prior to publication of the notice to adopt the rule.

(16) Each private attorney who is under contract to provide attorney services for the state or a state agency shall, from the inception of the contractual relationship until at least 4 years after the contract expires or terminates, maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the provision of such attorney services. The private attorney shall make all such records available for inspection and copying upon request in accordance with chapter 119.

Section 5. Section 60.08, Florida Statutes, is created to read:

60.08 Injunctions sought by the state pursuant to statute shall issue without bond.—In any action for injunctive relief sought by the state or one of its agencies as provided in ss. 501.207(1)(b), 542.23, and 895.05(5), any injunction sought shall issue without bond or surety and no bond or surety shall be required during the term of the injunction.

Section 6. Subsection (5) of section 16.01, Florida Statutes, is amended to read:

16.01 Residence, office, and duties of Attorney General.—The Attorney General:

(5) Shall appear in and attend to such suits or prosecutions in any other of the courts of this state or in any courts of any other state or of the United States. *This subsection is not intended to authorize the joinder of the Attorney General as a party in such suits or prosecutions.*

Section 7. Sections 45.051, Florida Statutes, is amended to read : 45.051 Execution of supersedeas bond when required of the state or its political subdivisions.—

(1) When a supersedeas bond is required by the appellate court under Rule 9.310(b)(2), Florida Rules of Appellate Procedure or an appeal or other proceeding is taken in any court and there is no court rule or statute exempting the parties from giving supersedeas, cost, or other required bond, the parties are authorized to make and execute the required bond with a corporate surety thereon duly licensed to do business in this state. The premium or other cost for the bond may be paid from the general necessary and regular appropriation of the party taking the appeal, in the case of the state or any of its officers, boards, commissioners or other agencies, and from the county general fund, district school general fund, or otherwise as the case may be, in the case of a political subdivision of the state or any of its officers, boards, commissions or other agencies. The officers of the state and its political subdivisions and the executive officers of their boards, commissions, and other agencies aforesaid, are authorized to make and execute the bonds on behalf of the parties.

(2) In connection with an appeal taken by a state employee or official of a judgement against that employee or official in an individual capacity, as part of the legal defense being provided by the state risk management program, the Division of Risk Management may enter into an indemnification agreement for the purpose of securing an appellate supersedeas bond, provided that, under any such agreement, the liability of the State of Florida is limited to the amount of the judgment being appealed and any costs imposed by law or the appropriate court.

Section 8. Section 48.121, Florida Statutes, is amended to read:

48.121 Service on the state.—When the state has consented to be sued, process against the state shall be served on the state attorney or an assistant state attorney for the judicial circuit within which the action is brought and by sending two copies of the process by registered or certified mail to the Attorney General. The state may serve motions or pleadings within 40 days after service is made. *This section is not intended to authorize the joinder of the Attorney General or a state attorney as a party in such suit or prosecution.*

Section 9. Section 45.062, Florida Statutes, is amended to read:

45.062 Settlements, conditions, or orders when an agency of the executive branch is a party.—

(1) In any civil action in which a state executive branch agency or officer is a party in state or federal court, the officer, agent, official, or attorney who represents or is acting on behalf of such agency or officer may not settle such action, consent to any condition, or agree to any order in connection therewith, if the settlement, condition, or order requires the expenditure of or the obligation to expend any state funds or other state resources, or the establishment of any new program, unless:

(a) The expenditure is provided for by an existing appropriation or program established by law; and

(b) Prior written notification is given within 5 business days of the date the settlement or presettlement agreement or order is to be made final to the President of the Senate, the Speaker of the House of Representatives, the Senate and House minority leaders, and the Attorney General. *Such notification shall specify how the agency involved will address the costs in future years within the limits of current appropriations.*

(2) The state executive branch agency or officer shall negotiate a closure date as soon as possible for the civil action.

(3) The state executive branch agency or officer may not pledge any current or future action of another branch of state government as a condition for settling the civil action.

(4) Any settlement that commits the state to spending in excess of current appropriations or to policy changes inconsistent with current state law shall be contingent upon and subject to legislative appropriation or statutory amendment. The state agency or officer may agree to use all efforts to procure legislative funding or statutory amendment.

(5) State agencies and officers shall report to each substantive and fiscal committee of the Legislature having jurisdiction over the reporting agency on all potential settlements that may commit the state to:

(a) Spend in excess of current appropriations; or

(b) Policy changes inconsistent with current state law.

The state agency or officer shall provide periodic updates to the appropriate legislative committees on these issues during the settlement process.

Section 10. Subsection (13) is added to section 216.023, Florida Statutes, to read:

216.023 Legislative budget requests to be furnished to Legislature by agencies.—

(13) As a part of the legislative budget request, the head of each state agency shall include an inventory of all litigation in which the agency is involved which may require additional appropriations to the agency or amendments to the law under which the agency operates. No later than March 1 following the submission of the legislative budget request, the head of the state agency shall provide an update of any additions or changes to the inventory. Such inventory shall include those items specified annually in the legislative budget instructions.

Section 11. Section 284.385, Florida Statutes, is amended to read:

284.385 Reporting and handling of claims.—All departments covered by the State Risk Management Trust Fund under this part shall immediately report all known or potential claims to the Department of Insurance for handling, except employment complaints which have not been filed with the Florida Human Relations Commission, Equal Employment Opportunity Commission, or any similar agency. When deemed necessary, the Department of Insurance shall assign or reassign the claim to counsel. The assigned counsel shall report regularly to the Department of Insurance *and to the covered department* on the status of any such claims or litigation as required by the Department of Insurance. No such claim shall be compromised or settled for monetary compensation without the prior approval of the Department of Insurance *and prior notification to the covered department*. All departments shall cooperate with the Department of Insurance in its handling of claims. The Department of Insurance, the Department of Management Services, and the Department of Banking and Finance, with the cooperation of the state attorneys and the clerks of the courts, shall develop a system to coordinate the exchange of information concerning claims for and against the state, its agencies, and its subdivisions, to assist in collection of amounts due to them. The covered department shall have the responsibility for the settlement of any claim for injunctive or affirmative relief under 42 U.S.C. s. 1983 or similar federal or state statutes. The payment of a settlement or judgment for any claim covered and reported under this part shall be made only from the State Risk Management Trust Fund.

Section 12. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 13. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 25, after the semicolon, through line 29, before the semicolon,

remove from the title of the bill: all of said lines

and On page 2, line 5,

remove from the title of the bill: all of said line

and insert in lieu thereof: party; amending s. 45.051, F.S.; authorizing the Division of Risk Management to enter into indemnification agreements for supersedeas bonds; amending s. 45.062.; providing

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

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

HB 1601—A bill to be entitled An act relating to workforce development; amending s. 445.004, F.S.; specifying an additional member of the board of directors of Workforce Florida, Inc.; amending s. 445.007, F.S.; providing legislative intent relating to involving certain persons in board activities; providing an effective date.

—was read the second time by title.

The Committee on Workforce & Technical Skills offered the following:

(Amendment Bar Code: 290833)

Amendment 1—On page 1, line 24
remove from the bill: all of said line

and insert in lieu thereof: *current or former recipient of welfare transition services as defined in s. 445.002(3) or workforce services as provided in s. 445.009(1),* and

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

The Committee on Workforce & Technical Skills offered the following:

(Amendment Bar Code: 284243)

Amendment 2—On page 2, lines 28 and 29,
remove from the bill: all said lines

and insert in lieu thereof: *persons who are current or former recipients of welfare transition assistance as defined in s. 445.002(3) or workforce services as provided in s. 445.009(1), or that such persons be included as ex*

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

Representative(s) Bendross-Mindingall offered the following:

(Amendment Bar Code: 364071)

Amendment 3 (with title amendment)—On page 3, between lines 10 & 11,

insert:

Section 3. Subsections (6) and (10) of section 445.004, Florida Statutes, are amended to read:

445.004 Workforce Florida, Inc.; creation; purpose; membership; duties and powers.—

(6) Workforce Florida, Inc., may take action that it deems necessary to achieve the purposes of this section, including, but not limited to:

(a) Creating a state employment, education, and training policy that ensures that programs to prepare workers are responsive to present and future business and industry needs and complement the initiatives of Enterprise Florida, Inc.

(b) Establishing policy direction for a funding system that provides incentives to improve the outcomes of vocational education programs, and of registered apprenticeship and work-based learning programs, and that focuses resources on occupations related to new or emerging industries that add greatly to the value of the state's economy.

(c) Establishing a comprehensive policy related to the education and training of target populations such as those who have disabilities, are economically disadvantaged, receive public assistance, are not proficient in English, or are dislocated workers. This approach should ensure the effective use of federal, state, local, and private resources in reducing the need for public assistance.

(d) Designating Institutes of Applied Technology composed of public and private postsecondary institutions working together with business and industry to ensure that technical and vocational education programs use the most advanced technology and instructional methods available and respond to the changing needs of business and industry.

(e) Providing policy direction for a system to project and evaluate labor market supply and demand using the results of the Workforce Estimating Conference created in s. 216.136 and the career education performance standards identified under s. 239.233.

(f) Reviewing the performance of public programs that are responsible for economic development, education, employment, and training. The review must include an analysis of the return on investment of these programs.

(g) Expanding the occupations identified by the Workforce Estimating Conference to meet needs created by local emergencies or plant closings or to capture occupations within emerging industries.

(h) Expanding the utilization of faith-based and community-based organizations to work collaboratively in the delivery of services to Florida's citizens.

(10) The workforce development strategy for the state shall be designed by Workforce Florida, Inc., and shall be centered around the strategies of First Jobs/First Wages, Better Jobs/Better Wages, and High Skills/High Wages.

(a) First Jobs/First Wages is the state's strategy to promote successful entry into the workforce through education and workplace experience that lead to self-sufficiency and career advancement. The components of the strategy include efforts that enlist business, education, and community support for students to achieve long-term career goals, ensuring that young people have the academic and occupational skills required to succeed in the workplace. *A minimum of 15 percent of all Workforce Investment Act youth services funds shall be expended for after-school care programs, through contracts with qualified faith-based and community-based organizations, on an equal basis with other private organizations, to provide after-school care programs to eligible children 14 through 18 years of age. Such programs shall include academic tutoring, mentoring, and other appropriate services. Similar services may be provided for eligible children 6 through 13 years of age using Temporary Assistance for Needy Families funds.*

(b) Better Jobs/Better Wages is the state's strategy for assisting employers in upgrading or updating the skills of their employees and for assisting incumbent workers in improving their performance in their current jobs or acquiring the education or training needed to secure a better job with better wages.

(c) High Skills/High Wages is the state's strategy for aligning education and training programs with high-paying, high-demand occupations that advance individuals' careers, build a more skilled workforce, and enhance Florida's efforts to attract and expand job-creating businesses.

Section 4. This act shall take effect July 1, 2001.

(Renumber subsequent sections)

And the title is amended as follows:

On page 1, line 7 after the semicolon,

insert: amending s. 445.004, F.S.; expanding the utilization of faith-based and community-based organizations; requiring certain funds to be expended for after-school care programs;

Rep. Bendross-Mindingall moved the adoption of the amendment, which was adopted.

Reconsideration

On motion by Rep. Jennings, the House reconsidered the vote by which **Amendment 3** was adopted. The question recurred on the adoption of the amendment.

Representative(s) Jennings offered the following:

(Amendment Bar Code: 874957)

Amendment 1 to Amendment 3 (with title amendment)—On page 3, line 22, after the period

insert: *Funds expended under this paragraph may not be used for religious or sectarian purposes. To provide after-school care programs under this paragraph, a community-based organization or a faith-based organization must be a nonprofit organization that holds a current exemption from federal taxation under s. 501(c)(3) or (4) of the Internal Revenue Code or must be a religious organization that is not required to apply for recognition of its exemption from federal taxation under s. 501(c)(3) of the Internal Revenue Code.*

And the title is amended as follows:

On page 4, line 16, of the amendment after the semicolon

insert: providing limitations on provision of certain after-school care program;

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

Further consideration of **HB 1601**, with pending amendments, was temporarily postponed under Rule 11.10.

CS/CS/HB 453—A bill to be entitled An act relating to guaranteed energy performance savings contracting; amending s. 489.145, F.S.; changing provisions relating to energy efficiency contracting to provisions relating to guaranteed energy performance savings contracting; providing a short title; providing legislative intent; revising definitions, procedures, and contract provisions; providing criteria, requirements, procedures, and limitations for energy performance contracts; providing for program administration and contract review by the Department of Management Services and the Office of the Comptroller; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 789—A bill to be entitled An act relating to governmental data processing; creating s. 119.084, F.S.; providing definitions; authorizing governmental agencies to acquire, hold, and enforce copyrights for data processing software they create; authorizing sale or license of such software; authorizing establishment of sales price and licensing fee; providing requirements for electronic recordkeeping systems; providing for access to public records maintained in electronic recordkeeping systems; providing for fees to be charged for copying public records maintained in electronic recordkeeping systems; prohibiting contracts for public records databases that impair public access to public records; providing for future review and repeal; providing a finding of public necessity; providing for adoption of rules; providing an effective date.

—was read the second time by title.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 853579)

Amendment 1 (with title amendment)—On page 4, line 29, through

Page 5, line 2
remove from the bill: all of said lines

And the title is amended as follows:

On page 1, line 19
remove from the title of the bill: all of said line

and insert in lieu thereof: necessity;

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

Representative(s) Mealor offered the following:

(Amendment Bar Code: 092971)

Amendment 2 (with title amendment)—On page 2, lines 4 & 5
remove from the bill: all of said lines,

and insert in lieu thereof:

(b) "Data processing software" means the programs and routines used to employ and control the capabilities of data processing hardware, including, but not limited to, operating systems, compilers, assemblers, utilities, library routines, maintenance routines, applications, and computer networking programs.

And the title is amended as follows:

On page 1, lines 19, after the semicolon

insert: defining "data processing software";

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

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

HB 863—A bill to be entitled An act relating to the North Springs Improvement District, Broward County; amending chapter 71-580, Laws of Florida, as amended; increasing the board of supervisors to a total of five members; providing for elections by electors residing within the district; providing for the appointment of a city commissioner from the City of Coral Springs and a city commissioner from the City of Parkland as board members; providing for regular and special board meetings instead of landowner meetings; providing for severability; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 670881)

Amendment 1 (with title amendment)—On page 1, line 29, through page 3, line 2,
remove from the bill: all of said lines

and insert in lieu thereof:

qualify. *Board members shall be elected at an election conducted by the supervisor of elections on the first Tuesday in November of the year in which the board members' terms expire. The costs of such elections shall be paid by the district.*

(2) ~~A majority of~~ The members of the board shall be residents of ~~Broward County, and all members shall be residents of Florida. All members of the board shall be landowners within~~ the district *and shall be elected as follows:*~~.~~

(a) Two members shall be residents of the City of Coral Springs and shall be elected by a majority vote of registered electors casting votes at an election of those electors residing within the City of Coral Springs.

(b) Two members shall be residents of the City of Parkland and shall be elected by a majority vote of registered electors casting votes at an election of those electors residing within the City of Parkland.

(c) One member shall be elected at large by a majority vote of registered electors casting votes at an election of those electors residing within the district.

(3) At the general election to be held in November 2002, one new board member shall be elected by electors residing within the City of Coral Springs and one new board member shall be elected by electors residing within the City of Parkland. Existing board members' terms as of the effective date of this act shall be extended to November of the year in which their terms expire and, commencing upon the expiration of the terms of those board members, all subsequent board members thereafter shall meet the requirements and shall be elected as provided in subsections (1) and (2). ~~In the~~

And the title is amended as follows:

On page 1, lines 8-11,
remove from the title of the bill: all of said lines

and insert in lieu thereof: providing for regular and

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

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

HB 891—A bill to be entitled An act relating to the City of Daytona Beach, Volusia County; providing for the lease of certain submerged lands to the city by the state; providing for the duration of the lease; specifying the amount of the lease; providing for the purpose of the lease; providing that the lease is contingent upon the city's acquisition of the pier situated upon the leased lands; providing additional terms of the lease; prohibiting transfer of lease without legislative action; providing for severability; requiring written submission of acceptance of terms to the Department of Environmental Protection; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 784647)

Amendment 1—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *The lessor, the Board of Internal Improvement Trust Fund is hereby directed to lease the following described property to the lessee, the City of Daytona Beach, Florida:*

A parcel of sovereign submerged land in Volusia County, Florida, more particularly described as:

A portion of submerged land in the Atlantic Ocean adjacent to Block 2, Plan of Seabreeze Subdivision as recorded in Deed Book "O" Page 301, Public Records of Volusia County, Florida, and being more particularly described as follows. As a point of reference, commence at the northeast corner of Block 5, said plan of Seabreeze Subdivision, thence north 67 degrees 53 minutes 33 seconds east along the southerly original right of way line of Main Street and along its extension thereof, 488.65 feet more or less, to the mean high water line of the Atlantic Ocean Beach and to the point of beginning. Thence continue north 67 degrees 53 minutes 33 seconds east 1000.00 feet, thence south 22 degrees 06 minutes 27 seconds east 242.30 feet, thence south 67 degrees 53 minutes 33 seconds west, 979.07 feet, more or less to the aforementioned high water line, thence north 27 degrees 02 minutes 40 seconds west along the said mean high water line approximately 243.21 feet to the point of beginning.

Section 2. *The term of this lease runs for a period of 35 years commencing on the date the City of Daytona Beach acquires ownership of the pier and associated upland parcel. Such acquisition must occur no later than 10 years after the effective date of this bill. The lessee shall pay an initial annual lease fee of $5,000 to the Board of Trustees of the Internal Improvement Trust Fund. The annual lease fee shall increase by $5,000 at each successive 5-year interval during the lease term and shall be remitted to the Department of Environmental Protection as the agent for the lessor. The lease fee for any renewals of this lease, beyond the initial lease period, shall be determined pursuant to the terms of Chapter 18-21, F.A.C., in effect at the time of such renewal.*

Section 3. *The submerged lands described in this act are leased for the purpose of furthering the city's downtown redevelopment initiative, including the city's acquisition of the historic pier situated upon the leased lands and such uses may include nonwater-dependent activities. If the city is unable to acquire the historic pier or, once having purchased the pier, relinquishes ownership, this lease is void.*

Section 4. *This lease is specifically contingent upon the City of Daytona Beach acquiring ownership of the pier, and this lease shall not become effective unless and until such acquisition is secured.*

Section 5. *The lessee shall make no claim of title or interest to said lands hereinbefore described by reason of the occupancy or use thereof, and all title and interest to said land hereinbefore described is vested in the lessor. The lessee may not make any claim, including any advertisement, that said land may be purchased, sold, or resold.*

Section 6. *During the term of this lease, the lessee shall maintain a fee simple title interest in the riparian upland property and, if such interest is terminated, the lease may be terminated at the option of the lessor. Prior to sale or other transfer of the lessee's fee simple title interest in the upland property, lessee shall inform any potential buyer or transferee of the lessee's upland property interest of the existence of this lease and all its terms and conditions and shall complete and execute any documents required by the lessor to effect an assignment of this lease, if authorized by further legislative action. Failure to do so will not relieve the lessee from responsibility for full compliance with the terms and conditions of this lease which include, but are not limited to, payment of all fees and/or penalty assessments incurred prior to such act.*

Section 7. *The lessee shall investigate all claims of every nature arising out of this lease at its expense and shall indemnify, defend and save, and hold harmless the State of Florida from all claims, actions, lawsuits, and demands arising out of this lease or the operation and activities associated with this lease.*

Section 8. *The lessee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective period of this lease.*

Section 9. *The lessee is prohibited from mooring vessels or charging general admission fees for public access to any pier built or operated on the leased premises. The lessee shall not knowingly permit or suffer any nuisances or illegal operations of any kind on the leased premises. During the term of this lease and any renewals, extensions, modifications or assignments thereof, lessee shall prohibit the operation of entry onto the leased premises of gambling cruise ships, or vessels that are used principally for the purpose of gambling, when these vessels are engaged in "cruises to nowhere." The term "cruises to nowhere" means the activity of ships that leave and return to the State of Florida without an intervening stop within another state or foreign country or waters within the jurisdiction of another state or foreign country, and any watercraft used to carry passengers to and from such gambling cruise ships.*

Section 10. *The lessee shall maintain the leased premises in good condition and keep the structures and equipment located thereon in a good state of repair in the interests of public health, safety, and welfare. No structure shall be built or operated in any manner that would cause harm to wildlife. All garbage, debris, and sewage shall be disposed of in an appropriate upland facility. The leased premises shall be subject to inspection by the Department of Environmental Protection at any reasonable time.*

Section 11. *The lessee shall prohibit the mooring of any "liveaboard" vessel within the leased premises. The "liveaboard" is defined as a vessel moored or docked at the facility and inhabited by a person or persons for any five (5) consecutive days or a total of ten (10) days within a thirty (30) day period. In the event liveaboards are authorized by further legislative action, in no event shall such "liveaboard" status exceed six (6) months within any twelve (12) month period, nor shall any such vessel constitute a legal or primary residence.*

Section 12. *The lessee, at its cost, shall remove any structures and equipment from the leased premises at the end of the lease term. Any costs incurred by the Lessor in removal of any structures and equipment constructed or maintained on the leased premises shall be paid by lessee and any unpaid costs and expenses shall constitute a lien upon the interest of the lessee in its riparian upland property enforceable in summary proceedings as provided by Law. If the lessee does not remove said structures and equipment occupying and erected upon the leased premises after expiration or cancellation of this lease, such structures and equipment will be deemed forfeited to the Lessor, and the lessor may authorize removal and may sell such forfeited structures and equipment after ten (10) days written notice by certified mail addressed to the lessee at such address on record as provided to the lessor by the lessee. However, such remedy shall be in addition to all other remedies available to the lessor under applicable laws, rules and regulations including the right to compel removal of all structures and the right to impose administrative fines.*

Section 13. *In the event that any part of any structure authorized hereunder is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere within adjacent riparian rights, lessee agrees to either obtain written consent for the offending structure from the affected riparian owner or to remove the interference or encroachment within sixty (60) days from the date of the adjudication. Failure to comply with this paragraph shall constitute a material breach of this lease agreement and shall be grounds for immediate termination of this lease agreement.*

Section 14. *Prior to commencement of construction and/or activities authorized herein, the lessee shall obtain all necessary federal, state, and local permits.*

Section 15. *On or in conjunction with the use of the leased premises, the lessee shall at all times comply with all federal, state, and local laws and all administrative rules promulgated thereunder which are not inconsistent with this act.*

Section 16. *The lease shall not be amended, modified, assigned or otherwise transferred without further legislative action.*

Section 17. *The lease authorized by this act represents the entire and only agreement between the parties. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application.*

Section 18. *This lease shall not take effect until the lessee, the City of Daytona Beach, submits acceptance of the terms of this lease in writing to the Department of Environmental Protection, as staff to the Board of Trustees of the Internal Improvement Trust Fund.*

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

Rep. Wiles moved the adoption of the amendment.

Representative(s) Wiles offered the following:

(Amendment Bar Code: 254971)

Substitute Amendment 1—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *The lessor, the Board of Trustees of the Internal Improvement Trust Fund, is hereby directed to lease the following described property to the lessee, the City of Daytona Beach, Florida:*

A parcel of sovereign submerged land in Volusia County, Florida, more particularly described as:

A portion of submerged land in the Atlantic Ocean adjacent to Block 2, Plan of Seabreeze Subdivision as recorded in Deed Book "O" Page 301, Public Records of Volusia County, Florida, and being more particularly described as follows. As a point of reference, commence at the northeast corner of Block 5, said plan of Seabreeze Subdivision, thence north 67 degrees 53 minutes 33 seconds east along the southerly original right of way line of Main Street and along its extension thereof, 488.65 feet more or less, to the mean high water line of the Atlantic Ocean Beach and to the point of beginning. Thence continue north 67 degrees 53 minutes 33 seconds east 1000.00 feet, thence south 22 degrees 06 minutes 27 seconds east 242.30 feet, thence south 67 degrees 53 minutes 33 seconds west, 979.07 feet, more or less to the aforementioned high water line, thence north 27 degrees 02 minutes 40 seconds west along the said mean high water line approximately 243.21 feet to the point of beginning.

Section 2. *The term of this lease runs for a period of 35 years commencing on the date the City of Daytona Beach acquires ownership of the pier and associated upland parcel. Such acquisition must occur no later than 5 years after the effective date of this act. The lessee shall pay an initial annual lease fee of $5,000 to the Board of Trustees of the Internal Improvement Trust Fund. The annual lease fee shall increase by $5,000 at each successive 5-year interval during the lease term and shall be remitted to the Department of Environmental Protection as the agent for the lessor. The lease fee for any renewals of this lease, beyond the initial lease period, shall be determined pursuant to the terms of Chapter 18-21, F.A.C., in effect at the time of such renewal.*

Section 3. *The submerged lands described in this act are leased for the purpose of furthering the city's downtown redevelopment initiative, including the city's acquisition of the historic pier situated upon the leased lands and such uses may include nonwater-dependent activities. If the city is unable to acquire the historic pier or, once having purchased the pier, relinquishes ownership, this lease is void.*

Section 4. *This lease is specifically contingent upon the City of Daytona Beach acquiring ownership of the pier, and this lease shall not take effect unless and until such acquisition is secured.*

Section 5. *The lessee shall make no claim of title or interest to the lands described in section 1 by reason of the occupancy or use thereof, and all title and interest to the lands described in section 1 is vested in the lessor. The lessee may not make any claim, including any advertisement, that said lands may be purchased, sold, or resold.*

Section 6. *During the term of this lease, the lessee shall maintain a fee simple title interest in the riparian upland property and, if such interest is terminated, the lease may be terminated at the option of the lessor. Prior to sale or other transfer of the lessee's fee simple title interest in the upland property, the lessee shall inform any potential buyer or transferee of the lessee's upland property interest of the existence of this lease and all its terms and conditions and shall complete and execute any documents required by the lessor to effect an assignment of this lease, if authorized by further legislative action. Failure to do so shall not relieve the lessee from responsibility for full compliance with the terms and conditions of this lease which include, but are not limited to, payment of all fees or penalty assessments incurred prior to the effective date of this act.*

Section 7. *The lessee shall investigate all claims of every nature arising out of this lease at its expense and shall indemnify, defend and save, and hold harmless the State of Florida from all claims, actions, lawsuits, and demands arising out of this lease or the operation and activities associated with this lease.*

Section 8. *The lessee shall assume all responsibility for liabilities that accrue to the subject property or to the improvements thereon, including any and all drainage or special assessments or taxes of every kind and description which are now or may be hereafter lawfully assessed and levied against the subject property during the effective*

period of this lease. The lessee shall purchase and maintain an all-risk property insurance policy to cover repair or replacement costs, subject to a deductible, that may arise out of damage occurring to the pier due to perils insured under such policy. The lessee shall provide proof of this insurance in writing and shall submit proof of insurance to the Department of Environmental Protection along with each annual lease payment.

Section 9. *The lessee is prohibited from mooring vessels or charging general admission fees for public access to any pier built or operated on the leased premises. The lessee shall not knowingly permit or suffer any nuisances or illegal operations of any kind on the leased premises. During the term of this lease and during any renewals, extensions, modifications, or assignments thereof, the lessee shall prohibit the operation or entry onto the leased premises of gambling cruise ships, or vessels that are used principally for the purpose of gambling, when these vessels are engaged in "cruises to nowhere." The term "cruises to nowhere" means the activity of ships that leave and return to the State of Florida without an intervening stop within another state or foreign country or waters within the jurisdiction of another state or foreign country, and any watercraft used to carry passengers to and from such gambling cruise ships.*

Section 10. *The lessee shall maintain the leased premises in good condition and keep the structures and equipment located thereon in a good state of repair in the interests of public health, safety, and welfare. No structure shall be built or operated in any manner that would cause harm to wildlife. All garbage, debris, and sewage shall be disposed of in an appropriate upland facility. The leased premises shall be subject to inspection by the Department of Environmental Protection at any reasonable time.*

Section 11. *The lessee shall prohibit the mooring of any "liveaboard" vessel within the leased premises. "Liveaboard" is defined as a vessel moored or docked at the facility and inhabited by a person or persons for any 5 consecutive days or a total of 10 days within a 30-day period. In the event liveaboards are authorized by further legislative action, in no event shall such liveaboard status exceed 6 months within any 12-month period, nor shall any such vessel constitute a legal or primary residence.*

Section 12. *The lessee, at its cost, shall remove any structures and equipment from the leased premises at the end of the lease term. Any costs incurred by the lessor in removal of any structures and equipment constructed or maintained on the leased premises shall be paid by the lessee and any unpaid costs and expenses shall constitute a lien upon the interest of the lessee in its riparian upland property enforceable in summary proceedings as provided by law. If the lessee does not remove said structures and equipment occupying and erected upon the leased premises after expiration or cancellation of this lease, such structures and equipment shall be deemed forfeited to the lessor, and the lessor may authorize removal and may sell such forfeited structures and equipment after 10 days' written notice by certified mail addressed to the lessee at the address on record as provided to the lessor by the lessee. However, such remedy shall be in addition to all other remedies available to the lessor under applicable laws, rules, and regulations, including the right to compel removal of all structures and the right to impose administrative fines.*

Section 13. *In the event that any part of any structure authorized under this act is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent riparian rights, the lessee agrees to either obtain written consent for the offending structure from the affected riparian owner or to remove the interference or encroachment within 60 days from the date of the adjudication. Failure to comply with this section shall constitute a material breach of this lease agreement and shall be grounds for immediate termination of this lease agreement.*

Section 14. *Prior to commencement of construction or the activities authorized in this act, the lessee shall obtain all necessary federal, state, and local permits. Nothing in this act shall serve as regulatory authorization for the proposed project or shall be construed as authorization to issue permits for the proposed project if the proposed project does not meet federal, state, or local permitting standards.*

Section 15. *On or in conjunction with the use of the leased premises, the lessee shall at all times comply with all federal, state, and local laws and all administrative rules promulgated thereunder which are not inconsistent with this act.*

Section 16. *The lease shall not be amended, modified, assigned, or otherwise transferred without further legislative action.*

Section 17. *The lease authorized by this act represents the entire and only agreement between the parties. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application.*

Section 18. *This lease shall not take effect until the lessee, the City of Daytona Beach, submits acceptance of the terms of this lease in writing to the Department of Environmental Protection, as staff to the Board of Trustees of the Internal Improvement Trust Fund.*

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

Rep. Wiles moved the adoption of the substitute amendment, which was adopted.

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

CS/HB 747 was taken up. On motion by Rep. Brown, CS for SB 938 was substituted for CS/HB 747. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 938—A bill to be entitled An act relating to credit insurance; amending s. 626.321, F.S.; authorizing the issuance of credit life insurance licenses to lending or financial institutions or creditors and authorizing such licensees to sell credit insurance; deleting certain license requirements for institutions with multiple offices; amending s. 627.679, F.S.; requiring certain disclosures to credit life insurance purchasers regarding the cancellation of such coverage; providing an effective date.

—was read the second time by title.

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

CS/CS/HB 267—A bill to be entitled An act relating to school attendance by violent offenders; amending s. 230.235, F.S.; requiring schools to adopt a policy of zero tolerance for victimization of students; requiring each school district to enter into an agreement with the Department of Juvenile Justice for the purpose of protecting victims; amending s. 231.0851, F.S.; requiring principals to take certain actions when a student has been a victim of a violent crime perpetrated by another student; providing ineligibility for certain performance pay policy incentives under certain circumstances; creating s. 232.265, F.S.; requiring the Department of Juvenile Justice to provide certain notice to school districts under certain circumstances; prohibiting certain persons from attending certain schools or riding on certain school buses under certain circumstances; providing for attending alternate schools; assigning responsibility for certain transportation under certain circumstances; amending s. 960.001, F.S.; providing an additional guideline for attendance of a victim at the same school as a juvenile defendant; amending s. 985.228, F.S.; requiring certain court orders to include certain findings; amending s. 985.23, F.S.; requiring a court to determine the appropriateness of a no contact order under certain circumstances; amending ss. 985.231 and 985.233, F.S.; requiring a court placement order or a commitment order to include certain findings; providing an effective date.

—was read the second time by title.

Representative(s) Kravitz offered the following:

(Amendment Bar Code: 783935)

Amendment 1—On page 7, line 27,
remove from the bill: *the jurisdiction of the criminal circuit court*

and insert in lieu thereof: *a presentence investigation by the Department of Corrections*

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

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

CS/HBs 715 & 1355—A bill to be entitled An act relating to breast and cervical cancer; creating s. 381.93, F.S.; providing a short title; providing legislative intent; authorizing specified breast and cervical cancer services to be rendered by the Department of Health; providing for funding sources for such services; providing for limits on service enrollment based on income; providing for income verification; authorizing the department to provide related services funded by other means; amending s. 409.904, F.S.; providing for Medicaid eligibility for certain women in need of treatment for breast and cervical cancer; specifying "qualified entity" for such purpose; providing for eligibility, presumptive eligibility, and duration of eligibility; providing an effective date.

—was taken up, having been read the second time on April 26; now pending on motion by Rep. Lerner to adopt Amendment 2 (shown in the *Journal* on page 960, April 26).

The question recurred on the adoption of **Amendment 2**, which was adopted.

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

Consideration of **HB 1601** was temporarily postponed under Rule 11.10.

CS/CS/HB 1509—A bill to be entitled An act relating to student financial assistance; amending s. 231.621, F.S.; providing for loan repayments under the Critical Teacher Shortage Student Loan Forgiveness Program directly to the teacher under certain circumstances; amending s. 240.209, F.S.; revising language with respect to student fees; increasing the percentage of funds from the financial aid fee to be used for need-based financial aid; requiring Board of Regents to develop criteria for making awards; providing for an annual report; amending s. 240.271, F.S.; requiring that a minimum percentage of funds provided in the General Appropriations Act for fellowship and fee waivers shall be used only to support graduate students or upper-division students in certain disciplines; amending s. 240.35, F.S.; revising language with respect to student fees; increasing the percentage of funds from the financial aid fee to be used for need-based financial aid; revising provisions regarding annual report; reenacting and amending s. 240.40201, F.S.; revising general student eligibility requirements for the Florida Bright Futures Scholarship Program; reenacting and amending s. 240.40202, F.S., relating to the Florida Bright Futures Scholarship Program; revising student eligibility provisions for initial award of a Florida Bright Futures Scholarship; revising language with respect to reinstatement applications; reenacting and amending s. 240.40203, F.S.; providing requirements for renewal, reinstatement, and restoration awards under the Florida Bright Futures Scholarship Program; reenacting and amending s. 240.40204, F.S.; updating obsolete language with respect to eligible postsecondary education institutions under the Florida Bright Futures Scholarship Program; reenacting and amending s. 240.40205, F.S.; revising language with respect to the Florida Academic Scholars award; revising provisions relating to the calculation of awards; including transition language currently in statute; reenacting and amending s. 240.40206, F.S.; changing the name of the Florida Merit Scholars award to the Florida Medallion Scholars award; revising eligibility requirements with respect to the award; revising provisions relating to the calculation of awards; reenacting and amending s. 240.40207, F.S.; revising eligibility requirements with respect to the Florida Gold Seal Vocational Scholars award; revising provisions relating to the calculation of awards; providing restrictions on use of the award; providing for transfer of awards; including transition language currently in statute; creating s. 240.40211, F.S.; providing for Florida Bright Futures Scholarship Program targeted occupations; providing student awards; repealing s. 240.40208, F.S., relating to transition language for eligibility for the Florida Bright Futures Scholarship Program; repealing s. 240.40242, F.S., relating to the use of certain scholarship funds by children of deceased or disabled veterans; providing for the Florida Bright Futures Scholarship Testing Program; requiring the Articulation Coordinating Committee to identify scores, credit, and courses for which credit may be awarded for specified examinations; requiring the completion of examinations for receipt of certain awards; providing requirements with respect to the award of credit; amending s. 240.404, F.S.; revising language with respect to general requirements for student eligibility for state financial aid; reenacting, renumbering, and amending ss. 240.2985 and 240.6054, F.S.; revising and combining provisions relating to ethics in business scholarships; amending s. 240.409, F.S.; revising language with respect to the Florida Public Student Assistance Grant Program; revising eligibility criteria; amending s. 240.4095, F.S.; revising language with respect to the Florida Private Student Assistance Grant Program; revising eligibility criteria; amending s. 240.4097, F.S.; revising language with respect to the Florida Postsecondary Student Assistance Grant Program; revising eligibility criteria; creating s. 240.40975, F.S.; providing for priority with respect to Florida student assistance grant programs; amending s. 240.4128, F.S.; revising language with respect to the minority teacher education scholars program; requiring participating institutions to report on eligible students to whom scholarships are disbursed each academic term; amending s. 240.437, F.S.; revising language with respect to student financial aid planning and development; amending s. 240.465, F.S.; deleting language which prohibits certain delinquent borrowers from being furnished with their academic transcripts; reenacting and amending s. 240.551, F.S.; revising language with respect to the Florida Prepaid College Program; revising language with respect to transfer and refund provisions; providing for a rollover of benefits to a college savings program at the redemption value of the advance payment contract at a state postsecondary institution; revising provisions relating to appointment of directors of the direct-support organization; creating s. 240.6053, F.S.; providing for academic program contracts and for funding thereof; amending s. 295.02, F.S.; including postsecondary education institutions eligible to participate in the Florida Bright Futures Scholarship Program among institutions at which children of certain service members may receive an award under ch. 295, F.S.; providing effective dates.

—was read the second time by title.

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

(Amendment Bar Code: 863805)

Amendment 1—On page 11, lines 6-21,
remove from the bill: all of said lines

and insert in lieu thereof:

(7) A minimum of 55 percent of the new awards from funds provided in the General Appropriations Act for fellowships and fee waivers shall be used only to support:

(a) Upper-division students or graduate students formally admitted to a degree program in one of the following disciplines:

1. Computer and information sciences.

2. Engineering.

3. Engineering technology.

4. Biological sciences/life sciences.

5. Mathematics.

6. Physical sciences.

7. Health professions and related sciences.

(b) Upper-division students or master's level students formally admitted to a state-approved teacher preparation program.

The State University System shall report annually to the Legislature the distribution of fellowships and fee waivers provided, including, but not limited to, the number of awards, the dollar value of the awards, student level, student discipline, and the number and percent of award recipients

remaining in the state following graduation who are employed in the field directly related to the discipline for which the award was received.

Rep. Diaz-Balart moved the adoption of the amendment, which was adopted.

Representative(s) Diaz-Balart, Richardson and Wiles offered the following:

(Amendment Bar Code: 490291)

Amendment 2 (with title amendment)—On page 13, line 27, through page 37, line 17,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 5. Subsections (1), (2), and (7) of section 240.40201, Florida Statutes, are amended to read:

240.40201 Florida Bright Futures Scholarship Program.—

(1) The Florida Bright Futures Scholarship Program is created to establish a lottery-funded scholarship program to reward any Florida high school graduate who merits recognition of high academic achievement and who enrolls in *a degree program, certificate program, or applied technology diploma program at* an eligible Florida public or private postsecondary education institution within *7* ~~3~~ years of graduation from high school. *No award shall be provided to a student beyond 7 years after high school graduation, regardless of the year in which a student first receives scholarship funding.*

(2) The Bright Futures Scholarship Program consists of three types of awards, the Florida Academic Scholarship, the Florida *Medallion* ~~Merit~~ Scholarship, and the Florida ~~Vocational~~ Gold Seal *Vocational* Scholarship.

(7) A student may receive only one type of award from the Florida Bright Futures Scholarship Program at a time, but may transfer from one type of award to another through the renewal application process, if the student's eligibility status changes. However, a student is not eligible to transfer from a Florida *Medallion* ~~Merit~~ Scholarship or a Florida ~~Vocational~~ Gold Seal *Vocational* Scholarship to a Florida Academic Scholarship. A student who receives an award from the program may also receive a federal family education loan or a federal direct loan, and the value of the award must be considered in the certification or calculation of the student's loan eligibility.

Section 6. Section 240.40202, Florida Statutes, is amended to read:

240.40202 Florida Bright Futures Scholarship Program; student eligibility requirements for initial awards.—

(1) To be eligible for an initial award from any of the three types of scholarships under the Florida Bright Futures Scholarship Program, a student must:

(a) Be a Florida resident as defined in s. 240.404 and rules of the State Board of Education.

(b) Earn a standard Florida high school diploma or its equivalent as described in s. 232.246 or s. 229.814 unless:

1. The student is enrolled full time in the early admission program of an eligible postsecondary education institution or completes a home education program according to s. 232.0201; or

2. The student earns a high school diploma from a non-Florida school while living with a parent or guardian who is on military or public service assignment away from Florida. *"Public service assignment," as used in this subparagraph, means the occupational assignment outside Florida of a person who is a permanent resident of Florida and who is employed by the United States Government or the State of Florida, a condition of which employment is assignment outside Florida.*

(c) Be accepted by and enroll in an eligible Florida public or independent postsecondary education institution.

(d) Be enrolled for at least 6 semester credit hours or the equivalent in quarter hours or clock hours.

(e) Not have been found guilty of, or *have pled* ~~plead~~ nolo contendere to *or guilty to*, a felony charge, unless the student has been granted clemency by the Governor and Cabinet sitting as the Executive Office of Clemency.

(f) Apply for a scholarship from the program by ~~April 1 of the last semester before~~ high school graduation. *Requests for exceptions to this deadline may be accepted by the high school or district through December 31 following high school graduation.*

(2) ~~A student is eligible to accept an initial award for 3 years following high school graduation and to accept a renewal award for 7 years following high school graduation.~~ A student ~~who applies for an award by April 1 and~~ who meets all ~~other~~ eligibility requirements, but who does not accept his or her award *during the first year of eligibility after high school graduation*, may *apply for reinstatement of the award for use within 7* ~~reapply during subsequent application periods up to 3~~ years after high school graduation. *Reinstatement applications must be received by the deadline established by the Department of Education.*

(3) For purposes of calculating the grade point average to be used in determining initial eligibility for a Florida Bright Futures scholarship, the department shall assign additional weights to grades earned in the following courses:

(a) Courses identified in the course code directory as Advanced Placement, pre-International Baccalaureate, or International Baccalaureate.

(b) Courses designated as academic dual enrollment courses in the statewide course numbering system.

The department may assign additional weights to courses, other than those described in paragraphs (a) and (b), that are identified by the Articulation Coordinating Committee as containing rigorous academic curriculum and performance standards. The additional weight assigned to a course pursuant to this subsection shall not exceed 0.5 per course. The weighted system shall be developed and distributed to all high schools in the state prior to January 1, 1998. The department may determine a student's eligibility status during the senior year before graduation and may inform the student of the award at that time.

(4) Each school district shall provide each high school student a complete and accurate Florida Bright Futures Scholarship Evaluation Report and Key annually. The report shall be disseminated at the beginning of each school year. The report must include all high school coursework attempted, the number of credits earned toward each type of award, and the calculation of the grade point average for each award. The report must also identify all requirements not met per award as well as the award or awards for which the student has met the academic requirements.

(5)~~(4)~~ A student who wishes to qualify for a particular award within the Florida Bright Futures Scholarship Program, but who does not meet all of the requirements for that level of award, may, nevertheless, receive the award if the principal of the student's school or the district superintendent verifies that the deficiency is caused by the fact that school district personnel provided inaccurate or incomplete information to the student. The school district must provide a means for the student to correct the deficiencies and the student must correct them, either by completing comparable work at the postsecondary institution or by completing a directed individualized study program developed and administered by the school district. If the student does not complete the requirements by December 31 immediately following high school graduation, the student is ineligible to participate in the program.

Section 7. Section 240.40203, Florida Statutes, is amended to read:

240.40203 Florida Bright Futures Scholarship Program; student eligibility requirements for renewal*, reinstatement, and restoration* awards.—

(1) To be eligible to *receive* ~~renew~~ a scholarship from any of the three types of scholarships under the Florida Bright Futures Scholarship Program *after the first year of eligibility*, a student must *meet the following requirements for renewal, reinstatement, or restoration*:

(a) *Renewal applies to students who receive an award for at least one term during the immediately preceding academic year. For renewal, a student must* complete at least 12 semester credit hours or the equivalent in the last academic year in which the student earned a scholarship *and*~~.~~

~~(b)~~ maintain the cumulative grade point average required by the scholarship program, except that:

1. If a recipient's grades fall beneath the average required to renew a Florida Academic Scholarship, but are sufficient to renew a Florida *Medallion* ~~Merit~~ Scholarship ~~or a Florida Vocational Gold Seal Scholarship~~, the Department of Education may grant a renewal *to the Florida Medallion Scholarship.* ~~from one of those other scholarship programs, if the student meets the renewal eligibility requirements; or~~

2. *If, upon renewal evaluation, a student fails to meet the renewal criteria pursuant to this section, credit hours and grades earned during the following summer term may be used to satisfy the renewal requirements.* ~~If, at any time during the eligibility period, a student's grades are insufficient to renew the scholarship, the student may restore eligibility by improving the grade point average to the required level. A student is eligible for such a reinstatement only once.~~ The Legislature encourages education institutions to assist students to calculate whether or not it is possible to raise the grade point average during the summer term. ~~If the institution determines that it is possible, the education institution may so inform the department, which may reserve the student's award if funds are available.~~ The renewal, however, must not be granted until the student achieves the required cumulative grade point average *and earns the required number of hours*. If*, during* the summer term*, a student does not earn* ~~is not~~ sufficient *hours or* ~~to~~ raise the grade point average to the required renewal level, the *student shall not be eligible for an award* ~~student's next opportunity for renewal is the fall semester of~~ the following academic year.

(b) Reinstatement applies to students who were eligible but did not receive an award during the previous academic year or years, and who may apply to reestablish use of the scholarship. For reinstatement, a student must have been eligible at the time of the student's most recent Florida Bright Futures Scholarship eligibility determination. The student must apply for reinstatement by submitting a reinstatement application by the deadline established by the Department of Education.

(c) Restoration applies to students who lost scholarship eligibility as a result of not meeting the renewal grade point average or number of hours, or both, at a prior evaluation period. A student may restore eligibility by meeting the renewal grade point average during a subsequent renewal evaluation period. A student is eligible to receive such restoration only once. The student must submit an application for restoration by the deadline established by the Department of Education.

(2) A *Florida Academic Scholar or a Florida Medallion Scholar* ~~student who is enrolled in a program that terminates in an associate degree or a baccalaureate degree~~ may receive an award for a maximum of 110 percent of the number of credit hours required to complete the *undergraduate* program.

(3) A Florida Academic Scholar or a Florida Medallion Scholar who is enrolled in a combined undergraduate/graduate program that terminates in the award of a postbaccalaureate degree, or the simultaneous award of baccalaureate and postbaccalaureate degrees, may receive an award for a maximum of 110 percent of the number of credit hours required to complete a standard undergraduate program at the institution attended, at the undergraduate rate.

(4) A *Florida Gold Seal Vocational Scholar* ~~student who is enrolled in a program that terminates in a technical certificate~~ may receive an award for *up to 90 semester* ~~a maximum of 110 percent of the~~ credit hours or *the equivalent* ~~clock hours required to complete the program up to 90 credit hours~~. A student who transfers from *the Florida Gold Seal Vocational Scholars award to the Florida Medallion Scholars award* ~~one of these program levels to another~~ becomes eligible for the higher of the two credit hour limits.

Section 8. Section 240.40204, Florida Statutes, is amended to read:

240.40204 Florida Bright Futures Scholarship Program; eligible postsecondary education institutions.—A student is eligible for an award or the renewal*, reinstatement, or restoration* of an award from the Florida Bright Futures Scholarship Program if the student meets the requirements for the program as described in this act and is enrolled in a postsecondary education institution that meets the description in any one of the following subsections:

(1) A Florida public university, community college, or technical center.

(2) An independent Florida college or university that is accredited by *an accrediting agency recognized by the United States Department of Education* ~~a member of the Commission on Recognition of Postsecondary Accreditation~~ and which has operated in the state for at least 3 years.

(3) An independent Florida postsecondary education institution that is licensed by the State Board of Independent Colleges and Universities and which:

(a) Shows evidence of sound financial condition; and

(b) Has operated in the state for at least 3 years without having its approval, accreditation, or license placed on probation.

(4) A Florida independent postsecondary education institution that offers a nursing diploma approved by the Board of Nursing.

(5) A Florida independent postsecondary education institution that is licensed by the State Board of Nonpublic Career Education and which:

(a) Has a program completion and placement rate of at least the rate required by the current Florida Statutes, the Florida Administrative Code, or the Department of Education for an institution at its level; and

(b) Shows evidence of sound financial condition; and either:

1. Is accredited at the institutional level by an accrediting agency recognized by the United States Department of Education and has operated in the state for at least 3 years during which there has been no complaint for which probable cause has been found; or

2. Has operated in Florida for 5 years during which there has been no complaint for which probable cause has been found.

Section 9. Section 240.40205, Florida Statutes, is amended to read:

240.40205 Florida Academic Scholars award.—

(1) A student is eligible for a Florida Academic Scholars award if the student meets the general eligibility requirements for the Florida Bright Futures Scholarship Program and the student:

(a) Has achieved a 3.5 weighted grade point average as calculated pursuant to s. 240.40202, or its equivalent, in high school courses that are adopted by the Board of Regents and recommended by the State Board of Community Colleges as college-preparatory academic courses; and

(b) Has attained at least the score identified by rules of the Department of Education on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the American College Testing Program; or

(c) Has attended a home education program according to s. 232.0201 during grades 11 and 12 or has completed the International Baccalaureate curriculum but failed to earn the International Baccalaureate Diploma, and has attained at least the score identified by rules of the Department of Education on the combined verbal and

quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the American College Testing Program; or

(d) Has been awarded an International Baccalaureate Diploma from the International Baccalaureate Office; or

(e) Has been recognized by the merit or achievement programs of the National Merit Scholarship Corporation as a scholar or finalist; or

(f) Has been recognized by the National Hispanic Recognition Program as a scholar recipient*; or*~~.~~

(g) Has been awarded the American International Certificate of Education Diploma from the University of Cambridge.

Effective with the 1998-1999 school year, a student must complete a program of community service work, as approved by the district school board or the administrators of a nonpublic school, which shall include a minimum of 75 hours of service work and require the student to identify a social problem that interests him or her, develop a plan for his or her personal involvement in addressing the problem, and, through papers or other presentations, evaluate and reflect upon his or her experience.

(2) A Florida Academic Scholar who is enrolled in a public postsecondary education institution is eligible for an award equal to the amount required to pay matriculation *and*~~,~~ fees, *as defined by the department,* and $600 for college-related expenses annually. A student who is enrolled in a nonpublic postsecondary education institution is eligible for an award equal to the amount that would be required to pay for the average matriculation and fees of a public postsecondary education institution at the comparable level, plus the annual $600.

(3) To be eligible for a renewal *or restoration* ~~award~~ as a Florida Academic Scholar, a student must *meet the requirements of s. 240.40203 and the* ~~maintain the equivalent of a~~ grade point average *requirement* of 3.0 on a 4.0 scale*, or the equivalent,* for all postsecondary education work attempted*. A student may have*~~, with~~ an opportunity for one *restoration* ~~reinstatement~~ as provided in this act.

(4) In each school district, the Florida Academic Scholar with the highest academic ranking shall *be designated as an Academic Top Scholar and shall* receive an additional award of $1,500 for college-related expenses. This award must be funded from the Florida Bright Futures Scholarship Program.

Section 10. Section 240.40206, Florida Statutes, is amended to read:

240.40206 Florida *Medallion* ~~Merit~~ Scholars award.—

(1) A student is eligible for a Florida *Medallion* ~~Merit~~ Scholars award if the student meets the general eligibility requirements for the Florida Bright Futures Scholarship Program and the student:

(a) Has achieved a weighted grade point average of 3.0 as calculated pursuant to s. 240.40202, or the equivalent, in high school courses that are adopted by the Board of Regents and recommended by the State Board of Community Colleges as college-preparatory academic courses; and

(b) Has attained at least the score identified by rules of the Department of Education on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the American College Testing Program; or

(c) Has attended a home education program according to s. 232.0201 during grades 11 and 12 or has completed the International Baccalaureate curriculum but failed to earn the International Baccalaureate Diploma, and has attained at least the score identified by rules of the Department of Education on the combined verbal and quantitative parts of the Scholastic Aptitude Test, the Scholastic Assessment Test, or the recentered Scholastic Assessment Test of the College Entrance Examination, or an equivalent score on the American College Testing Program*; or*~~.~~

(d) Has been recognized by the merit or achievement programs of the National Merit Scholarship Corporation as a scholar or finalist, but has not completed a program of community service as provided in s. 240.40205; or

(e) Has been recognized by the National Hispanic Recognition Program as a scholar, but has not completed a program of community service as provided in s. 240.40205.

(2) A Florida *Medallion* ~~Merit~~ Scholar is eligible for an award equal to the amount required to pay 75 percent of matriculation and fees, *as defined by the department,* if the student is enrolled in a public postsecondary education institution. A student who is enrolled in a nonpublic postsecondary education institution is eligible for an award equal to the amount that would be required to pay 75 percent of the *average* matriculation and fees of a public postsecondary education institution at the comparable level.

(3) To be eligible for a renewal *or restoration* ~~award~~ as a Florida *Medallion* ~~Merit~~ Scholar, a student must *meet the requirements of s. 240.40203 and the* ~~maintain the equivalent of a~~ grade point average *requirement* of 2.75 on a 4.0 scale*, or the equivalent,* for all postsecondary education work attempted*. A student may have*~~, with~~ an opportunity for ~~reinstatement~~ one *restoration* ~~time~~ as provided in this act.

Section 11. Section 240.40207, Florida Statutes, is amended to read:

240.40207 Florida Gold Seal Vocational Scholars award.—The Florida Gold Seal Vocational Scholars award is created within the Florida Bright Futures Scholarship Program to recognize and reward academic achievement and vocational preparation by high school students who wish to continue their education.

(1) A student is eligible for a Florida Gold Seal Vocational Scholars award if the student meets the general eligibility requirements for the Florida Bright Futures Scholarship Program and the student:

(a) *Successfully* completes ~~the secondary school portion of a sequential program of studies that requires~~ at least three secondary school vocational credits *in one program of study, as identified by the Department of Education,* taken over at least 2 academic years, and is continued in a planned, related postsecondary education program. If the student's school does not offer such a two-plus-two or tech-prep program, the student must complete a job-preparatory career education program selected by the Workforce Estimating Conference or Workforce Florida, Inc., for its ability to provide high-wage employment in an occupation with high potential for employment opportunities. *By July 1, 2002, the Articulation Coordinating Committee shall identify the programs at each 4-year institution that qualify as planned, related postsecondary education programs.* On-the-job training may not be substituted for any of the three required vocational credits.

(b) Demonstrates readiness for postsecondary education by earning a passing score on the Florida College Entry Level Placement Test or its equivalent as identified by the Department of Education.

(c) Earns a minimum cumulative weighted grade point average of 3.0, as calculated pursuant to s. 240.40202, on all subjects required for a standard high school diploma, excluding elective courses.

(d) Earns a minimum unweighted grade point average of 3.5 on a 4.0 scale for secondary vocational courses comprising the vocational program.

~~(e) Completes the requirements of a vocational-ready diploma program, as defined by rules of the State Board of Education.~~

(2) A Florida Gold Seal Vocational Scholar is eligible for an award equal to the amount required to pay 75 percent of matriculation and fees, *as defined by the department,* if the student is enrolled in a public postsecondary education institution. A student who is enrolled in a nonpublic postsecondary education institution is eligible for an award equal to the amount that would be required to pay 75 percent of the

matriculation and mandatory fees of a public postsecondary education institution at the comparable level.

(3) To be eligible for a renewal *or restoration* ~~award~~ as a Florida Gold Seal Vocational Scholar, a student must *meet the requirements of s. 240.40203 and the* ~~maintain the equivalent of a~~ grade point average *requirement* of 2.75 on a 4.0 scale*, or the equivalent,* for all postsecondary education work attempted*. A student may have*~~, with~~ an opportunity for ~~reinstatement~~ one *restoration* ~~time~~ as provided in this act.

(4) Beginning with the fall term of 2003, a Florida Gold Seal Vocational Scholars award may only be used by students who enroll in programs of 2 years or less at a vocational-technical institution, a community college, or a junior college unless the award is a renewal of an initial award issued prior to the fall term of 2003 or as otherwise provided for in this section. A student may use an award for a program at a 4-year institution if the program has been identified by the Articulation Coordinating Committee pursuant to subsection (1), the student meets the minimum State University System admissions requirements, and the institution certifies annually the student's continued enrollment in such program.

(5) Upon successful completion of an associate degree program or 60 hours, an award recipient who meets the renewal criteria in subsection (3) and enrolls in a baccalaureate degree program at an eligible postsecondary education institution is eligible to transfer to the Florida Medallion Scholars award component of the Florida Bright Futures Scholarship Program. Other than initial eligibility criteria, all other requirements of the Florida Medallion Scholars award shall apply to a student who transfers to that program pursuant to the provisions of this subsection. The number of hours for which a student may receive a Florida Medallion Scholars award shall be calculated by subtracting from the student's total eligibility pursuant to s. 240.40206(2) the number of hours for which the student has already received funding under the Florida Bright Futures Scholarship Program.

(6) If a Florida Gold Seal Vocational Scholar received an initial award prior to the fall term of 2003, and has a cumulative grade point average of 2.75 in all postsecondary education work attempted, the Department of Education may transfer the student to the Florida Medallion Scholars award component of the Florida Bright Futures Scholarship Program at any renewal period. Other than initial eligibility criteria, all other requirements of the Florida Medallion Scholars award shall apply to a student who transfers to that program pursuant to the provisions of this subsection. The number of hours for which a student may receive a Florida Medallion Scholars award shall be calculated by subtracting from the student's total eligibility pursuant to s. 240.40206(2) the number of hours for which the student has already received funding under the Florida Bright Futures Scholarship Program.

~~(4) A student may earn a Florida Gold Seal Vocational Scholarship for 110 percent of the number of credit hours required to complete the program, up to 90 credit hours or the equivalent. A Florida Gold Seal Scholar who has a cumulative grade point average of 2.75 in all postsecondary education work attempted may apply for a Florida Merit Scholars award at any renewal period. All other provisions of that program apply, and the credit hour limitation must be calculated by subtracting from the student's total eligibility the number of credit hours the student attempted while earning the Gold Seal Vocational Scholarship.~~

Section 12. Section 240.40211, Florida Statutes, is created to read:

240.40211 Florida Bright Futures Scholarship Program targeted occupations.—

(1)(a) Using information provided by the Workforce Estimating Conference, the Department of Education, in consultation with the Legislature, shall identify targeted occupations that are high demand, high wage, and high skill for which the state's postsecondary education institutions provide the necessary education and training.

(b) The Department of Education shall identify the specific associate and baccalaureate degree programs, certificate programs, and applied technology diploma programs that are offered by postsecondary education institutions and prepare students for employment in the targeted occupations. The department shall provide such information to the postsecondary education institutions that participate in the Florida Bright Futures Scholarship Program.

(c) Identification of targeted occupations and degree, certificate, and diploma programs shall be completed, and updated annually thereafter, for use in providing awards pursuant to this section beginning with the 2002-2003 fall academic term.

(2) A Florida Bright Futures Scholarship award recipient who is enrolled at a vocational-technical institution, a community college, or a junior college in a program identified pursuant to paragraph (1)(b) is eligible to receive an additional $250 per semester, or the equivalent, for postsecondary education-related expenses.

(3) A Florida Bright Futures Scholarship award recipient who is enrolled at a baccalaureate-degree-granting institution in the upper division of a program identified pursuant to paragraph (1)(b) is eligible to receive an additional $500 per semester, or the equivalent, for postsecondary education-related expenses.

(4) Institutions that participate in the Florida Bright Futures Scholarship Program and offer a program identified pursuant to paragraph (1)(b) shall advise their students of the availability of the awards provided pursuant to this section.

(5) The department shall establish procedures for institutions to certify to the department the initial and continued eligibility status of any student who is eligible to receive an award pursuant to this section. A student's continued enrollment in an eligible program shall be certified by the institution each academic year.

(6) The department shall evaluate this component of the Florida Bright Futures Scholarship Program from its inception to determine, of the total number of students who receive awards pursuant to this section, the number who become employed in the occupation for which the award was provided. This evaluation shall be reported on an annual basis to the Governor and the Legislature.

(7) This award component of the Florida Bright Futures Scholarship Program shall be implemented to the extent funded in the General Appropriations Act. When funds are not sufficient to make full awards, the department shall reduce the amount of each recipient's award pro rata.

Section 13. *Section 240.40242, Florida Statutes, is repealed.*

Section 14. *Florida Bright Futures Scholarship Testing Program.—*

(1) By January 1, 2002, the Articulation Coordinating Committee shall identify the minimum scores, maximum credit, and course or courses for which credit is to be awarded for each College Level Examination Program (CLEP) general examination, CLEP subject examination, College Board Advanced Placement Program examination, and International Baccalaureate examination. In addition, the Articulation Coordinating Committee shall identify such courses in the general education core curriculum of each state university and community college.

(2) Each community college and state university must award credit for specific courses for which competency has been demonstrated by successful passage of one of these examinations unless the award of credit duplicates credit already awarded. Community colleges and universities may not exempt students from courses without the award of credit if competencies have been so demonstrated.

(3) Beginning with initial award recipients for the 2002-2003 academic year and continuing thereafter, students eligible for a Florida Academic Scholars award or a Florida Medallion Scholars award who are admitted to and enroll in a community college or state university shall, prior to registering for courses that may be earned through a CLEP examination and no later than registration for their second term, complete at least five examinations from those specified in subsection (1) in the following areas: English; humanities; mathematics; natural

sciences; and social sciences. Successful completion of dual enrollment courses, Advanced Placement examinations, and International Baccalaureate examinations taken prior to high school graduation satisfy this requirement. The Articulation Coordinating Committee shall identify the examinations that satisfy each component of this requirement.

(4) Initial award recipients for the 2001-2002 academic year who are eligible for a Florida Academic Scholars award or a Florida Medallion Scholars award and who are admitted to and enroll in a community college or state university may choose, prior to registering for courses that may be earned through CLEP examination, to complete up to five CLEP examinations, one in each of the following areas: English; humanities; mathematics; natural sciences; and social sciences.

(5) Each community college and state university shall pay for the CLEP examinations required pursuant to this section from the funds appropriated from the Educational Enhancement Trust Fund. Institutions shall pay no more than $46 per examination for the program, which shall include access to a student guide to prepare for the test. The Department of Education shall negotiate with the College Board for a reduced rate for the examinations. The institution shall not charge the student for preparation and administration of the test, access to a student guide to prepare for the test, or recordkeeping and reporting of each student's test results to the department.

(6) The credit awarded pursuant to this section shall apply toward the 120 hours of college credit required pursuant to s. 240.115(6).

(7) The maximum number of credit hours for which a student is eligible to receive a Florida Bright Futures Scholarship Program award shall be reduced by the number of hours for which credit is awarded pursuant to this section.

(8) Beginning with the 2002-2003 award recipients, the Department of Education shall track and annually report on the effectiveness of the program, and include information on the number of students participating in the program; the CLEP examinations taken and the passage rate of Florida Academic Scholars and Florida Medallion Scholars award recipients; the use of Advanced Placement and International Baccalaureate examinations and dual enrollment courses to satisfy the requirements of the program; and the course credit provided.

And the title is amended as follows:

On page 1, line 24 through page 3, line 14,
remove from the title of the bill: all of said lines

and insert in lieu thereof: annual report; amending s. 240.40201, F.S.; revising general student eligibility requirements for the Florida Bright Futures Scholarship Program; amending s. 240.40202, F.S., relating to the Florida Bright Futures Scholarship Program; revising student eligibility provisions for initial award of a Florida Bright Futures Scholarship; revising language with respect to reinstatement applications; requiring school districts to provide each high school student a Florida Bright Futures Scholarship Evaluation Report and Key; amending s. 240.40203, F.S.; providing requirements for renewal, reinstatement, and restoration awards under the Florida Bright Futures Scholarship Program; revising provisions relating to award limits; amending s. 240.40204, F.S.; updating obsolete language with respect to eligible postsecondary education institutions under the Florida Bright Futures Scholarship Program; amending s. 240.40205, F.S.; revising eligibility requirements with respect to the Florida Academic Scholars award; amending s. 240.40206, F.S.; changing the name of the Florida Merit Scholars award to the Florida Medallion Scholars award; revising eligibility requirements with respect to the award; amending s. 240.40207, F.S.; revising eligibility requirements with respect to the Florida Gold Seal Vocational Scholars award; providing restrictions on use of the award; providing for transfer of awards; creating s. 240.40211, F.S.; providing for Florida Bright Futures Scholarship Program targeted occupations; providing student awards; repealing s. 240.40242, F.S., relating to the use of certain scholarship funds by children of deceased or disabled veterans; providing for the Florida Bright Futures Scholarship Testing Program; requiring the Articulation Coordinating Committee to identify scores, credit, and courses for which credit may be awarded for specified examinations; requiring the completion of examinations for receipt of certain awards; providing requirements with respect to the award of credit; requiring annual reporting of the effectiveness of the program; amending s.

Rep. Diaz-Balart moved the adoption of the amendment, which was adopted.

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

HB 1635—A bill to be entitled An act relating to environmental control; amending s. 369.25, F.S.; clarifying enforcement powers of the Department of Environmental Protection with respect to pt. I of ch. 369, F.S., relating to aquatic plant control; amending s. 373.129, F.S.; revising a reference with respect to enforcement of pt. IV of ch. 373, F.S., relating to management and storage of surface waters; creating s. 373.437, F.S.; authorizing the governing board of a water management district to assess administrative penalties for purposes of pt. IV of ch. 373, F.S., relating to management and storage of surface waters; amending s. 377.37, F.S.; providing that the Department of Environmental Protection shall assess administrative penalties for energy resource violations in accordance with provisions for administrative remedies in s. 403.121, F.S.; providing for deposit of such penalties in the Minerals Trust Fund; specifying uses of funds; amending s. 378.211, F.S.; authorizing the department to institute an administrative action with respect to a violation of pt. III of ch. 378, F.S., relating to phosphate land reclamation; removing penalty limitations; amending s. 403.121, F.S.; revising provisions relating to judicial remedies available to the department under the Florida Air and Water Pollution Control Act; providing criteria for cases in which the department shall proceed with administrative action; providing exceptions; providing specified limits on administrative penalties and notice of violation seeking administrative penalties; revising provisions relating to notice and service of notice of violation; providing procedure and requirements with respect to administrative hearings; providing that a respondent may request mediation if the department imposes an administrative penalty; providing mediation procedure and requirements; providing for award of costs and attorney's fees in administrative proceedings; providing construction with respect to injunctive relief, damages, and settlements; authorizing the department to pursue penalties in excess of $10,000 for specified violations; providing an administrative penalty schedule for drinking water contamination violations, domestic or industrial wastewater violations, dredge and fill stormwater violations, first-time mangrove trimming or altering violations, solid waste violations, air emission violations, and storage tank system and petroleum discharge or release violations; providing exceptions to the schedule; providing a schedule of additional administrative penalties; providing for consideration of a violator's history of noncompliance with respect to specified violations; providing penalty limits and reductions; providing for deposit and use of funds derived from administrative penalties; providing construction; amending s. 403.131, F.S.; providing that judicial and administrative remedies to recover damages and penalties in ss. 403.131 and 403.121, F.S., are alternative and mutually exclusive; amending s. 403.727, F.S.; removing provisions relating to assessment by the department of noncompliance fees for Class II violations of pt. IV of ch. 403, relating to resource recovery and management, and the deposit of such fees; amending s. 403.860, F.S.; providing for assessment of administrative penalties by the department or a county health department for violations of pt. V of ch. 403, F.S., relating to environmental regulation, in accordance with s. 403.121, F.S.; eliminating provisions relating to noncompliance fees and administrative penalties to conform; requiring the department to submit a report; reenacting ss. 373.129(7), 373.303(1)(j), 376.322(4), 403.4135(2), 403.7045(3)(d), 403.708(12), 403.726(2) and (3), 403.727(2), 403.758(1), 403.811, and 403.9419, F.S., to incorporate the amendments to ss. 403.121 and 403.131, F.S., in references thereto; reenacting s. 627.756(2), F.S., to incorporate the amendment to s. 403.727, F.S., in a reference thereto; reenacting ss. 381.0063, 403.854(7), and 403.862(7), F.S., to incorporate the

amendment to s. 403.860, F.S., in references thereto; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources & Environmental Protection offered the following:

(Amendment Bar Code: 374085)

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

and insert in lieu thereof:

Section 1. Paragraph (k) is added to subsection (3) of section 369.25, Florida Statutes, to read:

369.25 Aquatic plants; definitions; permits; powers of department; penalties.—

(3) The department has the following powers:

(k) To enforce this chapter in the same manner and to the same extent as provided in ss. 403.121, 403.131, 403.141, and 403.161.

Section 2. Section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(1) Judicial remedies:

(a) The department may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than $10,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(c) *Except as provided in paragraph (2)(c),* it shall not be a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the department has failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative hearing prior to the institution of a civil action.

(2) Administrative remedies:

(a) The department may institute an administrative proceeding to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, or aquatic life, of the state caused by any violation. The department may order that the violator pay a specified sum as damages to the state. Judgment for the amount of damages determined by the department may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. *Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed $10,000 per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). The department shall not impose administrative penalties in excess of $10,000 in a notice of violation. The department shall not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.*

(c) An administrative proceeding shall be instituted by the department's serving of a written notice of violation upon the alleged violator by certified mail. *If the department is unable to effect service by certified mail, the notice of violation may be hand-delivered or personally served in accordance with chapter 48.* The notice shall specify the provision of the law, rule, regulation, permit, certification, or order of the department alleged to be violated and the facts alleged to constitute a violation thereof. An order for corrective action*, penalty assessment, or damages* may be included with the notice. *When the department is seeking to impose an administrative penalty for any violation by issuing a notice of violation, any corrective action needed to correct the violation or damages caused by the violation must be pursued in the notice of violation or they are waived.* However, no order shall become effective until after service and an administrative hearing, if requested within 20 days after service. Failure to request an administrative hearing within this time period shall constitute a waiver thereof*, unless the respondent files a written notice with the department within this time period opting out of the administrative process initiated by the department to impose administrative penalties. Any respondent choosing to opt out of the administrative process initiated by the department in an action that seeks the imposition of administrative penalties must file a written notice with the department within 20 days after service of the notice of violation opting out of the administrative process. A respondent's decision to opt out of the administrative process does not preclude the department from initiating a state court action seeking injunctive relief, damages and the judicial imposition of civil penalties*.

(d) If a person timely files a petition challenging a notice of violation, that person will thereafter be referred to as the respondent. The hearing requested by the respondent shall be held within 180 days after the department has referred the initial petition to the Division of Administrative Hearings unless the parties agree to a later date. The department has the burden of proving with the preponderance of the evidence that the respondent is responsible for the violation. No administrative penalties should be imposed unless the department satisfies that burden. Following the close of the hearing, the administrative law judge shall issue a final order on all matters, including the imposition of an administrative penalty. When the department seeks to enforce that portion of a final order imposing administrative penalties pursuant to s. 120.69, the respondent shall not assert as a defense the inappropriateness of the administrative remedy. The department retains its final-order authority in all administrative actions that do not request the imposition of administrative penalties.

(e) After filing a petition requesting a formal hearing in response to a notice of violation in which the department imposes an administrative penalty, a respondent may request that a private mediator be appointed to mediate the dispute by contacting the Florida Conflict Resolution Consortium within 10 days after receipt of the Initial Order from the administrative law judge. The Florida Conflict Resolution Consortium shall pay all of the costs of the mediator and for up to 8 hours of the mediator's time per case at $150 per hour. Upon notice from the respondent, the Florida Conflict Resolution Consortium shall provide a panel of possible mediators from the area in which the hearing on the petition would be heard to the respondent. The respondent shall select the mediator and notify the Florida Conflict Resolution Consortium of the selection within 15 days of receipt of the proposed panel of mediators. The Florida Conflict Resolution Consortium shall provide all of the administrative support for the mediation process. The mediation must be completed at least 15 days before the final-hearing date set by the administrative law judge.

(f) In any administrative proceeding brought by the department, the prevailing party shall recover all costs as provided in ss. 57.041 and 57.071. The costs must be included in the final order. The respondent is the prevailing party when an order is entered awarding no penalties to the department and such order has not been reversed on appeal or the time for seeking judicial review has expired. The respondent shall be entitled to an award of attorney's fees if the administrative law judge determines that the notice of violation initiated by the department seeking the imposition of administrative penalties was not substantially justified as defined in s. 57.111(3)(e). No award of attorney's fees as provided by this subsection shall exceed $15,000.

(g)~~(d)~~ Nothing herein shall be construed as preventing any other legal or administrative action in accordance with law. *Nothing in this subsection shall limit the department's authority provided in ss. 403.121, 403.131, and 403.141, to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of $10,000 for violations not specifically included in the administrative penalty schedule, or for multiple or multi-day violations alleged to exceed a total of $10,000. The department also retains the authority provided in ss. 403.121, 403.131, and 403.141, to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, either before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of $10,000 in penalties may be settled in the court action for less than $10,000.*

(h) Chapter 120, Florida Statutes, shall apply to any administrative action taken by the department or any delegated program pursuing administrative penalties in accordance with this section.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(a) For a drinking water contamination violation, the department shall assess a penalty of $2,000 for a Maximum Containment Level (MCL) violation; plus $1,000 if the violation is for a primary inorganic, organic, or radiological Maximum Contaminant Level or it is a fecal coliform bacteria violation; plus $1,000 if the violation occurs at a community water system; and plus $1,000 if any Maximum Contaminant Level is exceeded by more than 100 percent. For failure to obtain a clearance letter prior to placing a drinking water system into service when the system would not have been eligible for clearance - $3,000.

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, the department shall assess a penalty of $1,000. For a domestic or industrial wastewater violation not involving a surfacewater or groundwater quality violation, the department shall assess a penalty of $2,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surfacewater or groundwater quality violation, the department shall assess a penalty of $5,000.

(c) For a dredge and fill or stormwater violation, the department shall assess a penalty of $1,000 for unpermitted or unauthorized dredging or filling or unauthorized construction of a stormwater management system against the person or persons responsible for the illegal dredging or filling, or unauthorized construction of a stormwater management system; plus $2,000 if the dredging or filling occurs in an Aquatic Preserve, Outstanding Florida Water, conservation easement, or Class I or Class II surfacewater; plus $1,000 if the area dredged or filled is greater than one-quarter acre but less than one-half acre, and plus $1,000 if the area dredged or filled is greater than one-half acre but less than one acre. The administrative penalty schedule shall not apply to a dredge and fill violation if the area dredged or filled exceeds one acre. The department retains the authority to seek the judicial imposition of civil penalties for all dredge and fill violations involving more than one acre. The department shall assess a penalty of $3,000 for the failure to complete required mitigation, failure to record a required conservation easement , or for a water quality violation resulting from dredging or filling activities, stormwater construction activities or failure of a stormwater treatment facility. For stormwater management systems serving less than five acres, the department shall assess a penalty of $2,000 for the failure to properly or timely construct a stormwater management system. In addition to the penalties authorized in this subsection, the department shall assess a penalty of $5,000 per violation against the contractor or agent of the owner or tenant that conducts unpermitted or unauthorized dredging or filling.

(d) For mangrove trimming or alteration violations, the department shall assess a penalty of $5,000 per violation against the contractor or agent of the owner or tenant that conducts mangrove trimming or alteration without a permit as required by s. 403.9328.

(e) For solid waste violations, the department shall assess a penalty of $2,000 for the unpermitted or unauthorized disposal or storage of solid waste; plus $1,000 if the solid waste is Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards; plus $1,000 if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well; plus $1,000 if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater than 1 cubic meter that is not wetted, bagged, and covered, used oil greater than 25 gallons; or 10 or more lead acid batteries. The department shall assess a penalty of $3,000 for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; failure to provide access control for three consecutive inspections. The department shall assess a penalty of $2,000 for failure to construct or maintain a required stormwater management system.

(f) For an air emission violation, the department shall assess a penalty of $1,000 for an unpermitted or unauthorized air emission or an air-emission-permit exceedance, plus $1,000 if the emission results in an air quality violation, plus $3,000 if the emission was from a major source and the source was major for the pollutant in violation; plus $1,000 if the emission was more than 150 percent of the allowable level.

(g) For storage tank system and petroleum contamination violations, the department shall assess a penalty of $5,000 for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; failure to timely recover free product; or for failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued. The department shall assess a penalty of $3,000 for failure to timely upgrade a storage tank system. The department shall assess a penalty of $2,000 for failure to conduct or maintain required release detection; failure to timely investigate a suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to properly install a storage tank system. The department shall assess a penalty of $1,000 for failure to properly operate, maintain, or close a storage tank system.

~~(3)(a) In addition to any judicial or administrative remedy authorized by this part, the department may assess a noncompliance fee for failure of any owner or operator of a domestic wastewater treatment facility to comply with a permit condition that requires the submittal of monthly operating reports or the reporting of the characteristics of the waste stream or the effects of the facility on surface or ground water. For the first and second violations of the reporting requirements, the fee shall not be assessed until the department has given the owner or operator at least 30 days to comply with the reporting requirement. The time shall not begin until the department has given the owner or operator written notice of the facts alleged to constitute the reporting violation, the specific provision of law, rule, or order alleged to have been violated by the owner or operator, the corrective action needed to bring the facility into compliance, and the potential penalties that may be imposed as a result of the owner's or operator's failure to comply with the notice. For subsequent violations, the department does not have to provide 30 days' written notice of the violations prior to assessing a noncompliance fee, except as follows:~~

~~1. If any additional reporting violations occur prior to the expiration of either of the 30-day notices issued by the department, the department must provide the owner or operator with 30 days' written notice to correct these violations as well.~~

~~2. Upon the renewal of the permit, the department shall reinstate the 30-day notice requirements provided in this subsection prior to assessing a noncompliance fee during the new permit period.~~

~~(b) At the time of assessment of a noncompliance fee, the department shall give the owner or operator written notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective unless an administrative proceeding is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69. Once the assessment has become final and effective, the department may refuse to issue, modify, transfer, or renew a permit to the facility until the fee has been paid.~~

~~(c) Before assessing a noncompliance fee, the department shall adopt rules to implement the provisions of this subsection. The rules shall establish specific procedures and assessment amounts for noncompliance fees authorized by paragraph (a). Noncompliance fees shall be set on a sliding scale based upon the type of violation, the degree of noncompliance, and the potential for harm. Such rules shall also authorize the application of adjustment factors subsequent to the initial assessment to increase or decrease the total amount assessed, such as the good faith efforts or the lack of good faith efforts of the owner or operator to comply with the reporting requirement, the lack of or degree of willfulness or negligence on the part of the owner or operator, the economic benefits associated with the owner's or operator's failure to comply, the owner's or operator's previous history of reporting violations, and the owner's or operator's ability to pay the noncompliance fee. No noncompliance fee shall exceed $250, and total noncompliance fees assessed shall not exceed $1,000 per assessment for all reporting violations attributable to a specific facility during any one month. No noncompliance fee may be assessed unless the department has, within 90 days of the reporting violation, provided the owner or operator written notice of the violation.~~

~~(d) The department's assessment of a noncompliance fee shall be in lieu of any civil action which may be instituted by the department in a court of competent jurisdiction to impose and recover civil penalties for any violation that resulted in the fee assessment, unless the department initiates a civil action for nonpayment of a fee properly assessed pursuant to this subsection.~~

~~(e) Fees collected pursuant to this subsection shall be deposited in the Ecosystem Management and Restoration Trust Fund. The department may use a portion of the fund to contract for services to help in the collection of the fees assessed pursuant to this subsection.~~

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), $5,000.

(b) For failure to install, maintain, or use a required pollution control system or device, $4,000.

(c) For failure to obtain a required permit prior to construction or modification, $3,000.

(d) For failure to conduct required monitoring or testing; failure to conduct required release detection; failure to construct in compliance with a permit, $2,000.

(e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required notification to the department, $1,000.

(f) For failure to prepare, submit, maintain, or use required reports or other required documentation, $500.

(5) For failure to comply with any other department regulatory statute or rule requirement not otherwise identified in this section, the department may assess a penalty of $500.

(6) For each additional day during which a violation occurs, the administrative penalties in subsection (3), subsection (4), and subsection (5) may be assessed per day per violation.

(7) The history of noncompliance of the violator for any previous violation resulting in an executed consent order, but not including a consent order entered into without a finding of violation, final order or judgment after the effective date of this law involving the imposition of $2,000 or more in penalties shall be taken into consideration in the following manner:

(a) One previous such violation within 5 years prior to the filing of the notice of violation will result in a 25 percent per day increase in the scheduled administrative penalty.

(b) Two previous such violations within 5 years prior to the filing of the notice of violation will result in a 50 percent per day increase in the scheduled administrative penalty.

(c) Three or more previous such violations within 5 years prior to the filing of the notice of violation will result in a 100 percent per day increase in the scheduled administrative penalty.

(8) The direct economic benefit gained by the violator from the violation shall be added to the scheduled administrative penalty. The total administrative penalty, including any economic benefit added to the scheduled administrative penalty, shall not exceed $10,000.

(9) The administrative penalties assessed for any particular violation shall not exceed $5,000 against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation exceeds $5,000, or there are multi-day violations. The total administrative penalties shall not exceed $10,000 per assessment for all violations attributable to a specific person in the notice of violation.

(10) The administrative law judge may receive evidence in mitigation. The penalties identified in subsection (3), subsection (4), and subsection (5) may be reduced up to 50 percent by the administrative law judge for mitigating circumstances, including good faith efforts to comply prior to or after discovery of the violations by the department. Upon an affirmative finding that the violation was caused by circumstances beyond the reasonable control of the respondent and could not have been prevented by respondent's due diligence, the administrative law judge may further reduce the penalty.

(11) Penalties collected pursuant to this section shall be deposited in the Ecosystem Management and Restoration Trust Fund or other trust fund designated by statute and shall be used to fund the restoration of ecosystems, or polluted areas of the state, as defined by the department, to their condition before pollution occurred. The Florida Conflict Resolution Consortium may use a portion of the fund to administer the mediation process provided in paragraph (2)(e) and to contract with private mediators for administrative penalty cases.

(12) The purpose of the administrative penalty schedule and process is to provide a more predictable and efficient manner for individuals and businesses to resolve relatively minor environmental disputes. Nothing in subsection (3), subsection (4), subsection (5), subsection (6), or subsection (7) shall be construed as limiting a state court in the assessment of damages. The administrative penalty schedule does not apply to the judicial imposition of civil penalties in state court as provided in this section.

Section 3. Section 403.131, Florida Statutes, is amended to read:

403.131 Injunctive relief, ~~cumulative~~ remedies.—

(1) The department may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this chapter or any rule, regulation, permit certification, or order; to enjoin any violation specified in s. 403.161(1); and to seek injunctive relief to prevent irreparable injury to the air, waters, and property,

including animal, plant, and aquatic life, of the state and to protect human health, safety, and welfare caused or threatened by any violation.

(2) All the judicial and administrative remedies *to recover damages and penalties* in this section and s. 403.121 ~~are independent and cumulative except that the judicial and administrative remedies to recover damages~~ are alternative and mutually exclusive.

Section 4. Subsection (3) of section 403.727, Florida Statutes, is amended to read:

403.727 Violations; defenses, penalties, and remedies.—

(3) Violations of the provisions of this act are punishable as follows:

(a) Any person who violates the provisions of this act, the rules or orders of the department, or the conditions of a permit is liable to the state for any damages specified in s. 403.141 and for a civil penalty of not more than $50,000 for each day of continued violation, except as otherwise provided herein. The department may revoke any permit issued to the violator. In any action by the department against a small hazardous waste generator for the improper disposal of hazardous wastes, a rebuttable presumption of improper disposal shall be created if the generator was notified pursuant to s. 403.7234; the generator shall then have the burden of proving that the disposal was proper. If the generator was not so notified, the burden of proving improper disposal shall be placed upon the department.

(b) Any person who knowingly or by exhibiting reckless indifference or gross careless disregard for human health:

1. Transports or causes to be transported any hazardous waste, as defined in s. 403.703, to a facility which does not have a permit when such a permit is required under s. 403.707 or s. 403.722;

2. Disposes of, treats, or stores hazardous waste:

a. At any place but a hazardous waste facility which has a current and valid permit pursuant to s. 403.722;

b. In knowing violation of any material condition or requirement of such permit if such violation has a substantial likelihood of endangering human health, animal or plant life, or property; or

c. In knowing violation of any material condition or requirement of any applicable rule or standard if such violation has a substantial likelihood of endangering human health, animal or plant life, or property;

3. Makes any false statement or representation or knowingly omits material information in any hazardous waste application, label, manifest, record, report, permit, or other document required by this act;

4. Generates, stores, treats, transports, disposes of, or otherwise handles any hazardous waste and who knowingly destroys, alters, conceals, or fails to file any record, application, manifest, report, or other document required to be maintained or filed for purposes of compliance with this act; or

5. Transports without a manifest, or causes to be transported without a manifest, any hazardous waste required by rules adopted by the department to be accompanied by a manifest

is, upon conviction, guilty of a felony of the third degree, punishable for the first such conviction by a fine of not more than $50,000 for each day of violation or imprisonment not to exceed 5 years, or both, and for any subsequent conviction by a fine of not more than $100,000 per day of violation or imprisonment of not more than 10 years, or both.

~~(c)1. As used in this paragraph, "Class II violation" means a violation of this part, or the rules promulgated pursuant to this part, which pertains to small quantity generators as defined by applicable department rules and which does not result in a discharge or serious threat of a discharge of hazardous waste to the environment, or does not involve the failure to ensure that groundwater will be protected or that hazardous waste will be destined for and delivered to permitted facilities. Class II violations shall include, but need not be limited to, the failure to submit manifest exception reports in a timely manner, failure to provide a generator's United States Environmental Protection Agency identification number on the manifest, failure to maintain complete personnel training records, and failure to meet inspection schedule requirements for tanks and containers that hold hazardous waste.~~

~~2. In addition to any other judicial or administrative remedy authorized by this part, the department may assess a noncompliance fee for any Class II violation by a small quantity generator. For the first and second violations, the fee shall not be assessed until the generator has failed to comply after notice of noncompliance and has been given a reasonable time to comply. If the owner or operator fails after three or more notifications to comply with the requirement to correct the Class II violation, the department may assess the fee without waiting for compliance.~~

~~3. At the time of assessment of a noncompliance fee, the department shall give the small quantity generator written notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective unless an administrative proceeding is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69. Once the assessment has become final and effective, the department shall refuse to issue, modify, transfer, or renew a permit or issue an identification number to the facility until the fee has been paid.~~

~~4. Before assessing any noncompliance fee, the department shall adopt rules to implement the provisions of this paragraph, which shall include a description of activities that constitute Class II violations and the setting of appropriate amounts for the noncompliance fees, based upon the type of violation, but not to exceed $250. Total noncompliance fees assessed shall not exceed $1,000 per assessment for all violations attributable to a specific facility during any one month.~~

~~5. The department's assessment of a noncompliance fee shall be in lieu of any civil action that may be instituted by the department in a court of competent jurisdiction to impose and recover civil penalties for any violation that resulted in the fee assessment, unless the department initiates a civil action for nonpayment of a fee properly assessed pursuant to this paragraph.~~

~~6. Noncompliance fees collected pursuant to this paragraph shall be deposited in the Ecosystem Management and Restoration Trust Fund. The department may use a portion of the fund to contract for services to help in the collection of fees assessed pursuant to this paragraph.~~

Section 5. Subsections (5) and (6) of section 403.860, Florida Statutes, are amended to read:

403.860 Penalties and remedies.—

(5) In addition to any judicial or administrative remedy authorized by this part, the department or a county health department that has received approval by the department pursuant to s. 403.862(1)(c) *shall* ~~may~~ assess *administrative penalties for violations of this section in accordance with s. 403.121* ~~a noncompliance fee for failure of any supplier of water of a public water system to comply with department requirements for the reporting, in the manner and time provided by department rule, of test results for microbiological, inorganic, or organic contaminants; or turbidity, radionucleides, or secondary standards~~.

~~(a) For the first and second violations of the microbiological reporting requirements, and for the first violation of other reporting requirements, the fee shall not be assessed until the department has given the supplier at least 30 days to comply with the reporting requirement. The time shall not begin until the department has given the supplier written notice of the facts alleged to constitute the reporting violation, the specific provision of law, rule, or order alleged to have been violated by the owner or operator, the corrective action needed to bring the facility into compliance, and the potential penalties that may be~~

~~imposed as a result of the supplier's failure to comply with the notice. For subsequent violations of the microbiological reporting requirements, the department does not have to provide 30-day written notice of the violations prior to assessing a noncompliance fee, provided, however, that if any additional reporting violations occur prior to the expiration of either 30-day notice issued by the department, the department must provide the supplier with a 30-day written notice to correct those violations as well. Upon expiration of 36 months, the department shall reinstate the 30-day notice requirements provided in this subsection prior to assessing a noncompliance fee.~~

~~(b) At the time of assessment of a noncompliance fee, the department shall give the supplier written notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective unless an administrative proceeding is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69.~~

~~(c) Before assessing a noncompliance fee, the department shall adopt rules to implement the provisions of this subsection. The rules shall establish specific procedures and assessment amounts for noncompliance fees authorized by paragraph (a). Noncompliance fees shall be set on a sliding scale based upon the type of violation, the degree of noncompliance, and the potential for harm. Such rules shall also authorize the application of adjustment factors subsequent to initial assessment to increase or decrease the total amount assessed, such as the good faith efforts or the lack of good faith efforts of the supplier to comply with the reporting requirements, the lack of or degree of willfulness or negligence on the part of the supplier, the economic benefits associated with the supplier's failure to comply with the reporting violation, the supplier's previous history of reporting violations, and the supplier's ability to pay the noncompliance fee.~~

~~(d) For microbiological reporting requirements, no noncompliance fee shall exceed $250, and total noncompliance fees assessed shall not exceed $1,000 per assessment for all reporting violations attributable to a specific facility during any one month.~~

~~(e) For violations of reporting requirements other than microbiological, the fee shall be no greater than $50 per day for each day of violation, and the total amount assessed shall not exceed $2,000.~~

~~(f) The department's assessment of a noncompliance fee shall be in lieu of any civil action which may be instituted by the department in a court of competent jurisdiction to impose and recover civil penalties for any violation that resulted in the fee assessment, unless the department initiates a civil action for nonpayment of a fee properly assessed pursuant to this subsection.~~

~~(g) No noncompliance fee may be assessed unless the department has, within 90 days of the reporting violation, provided the supplier written notice of the violation.~~

~~(6) The department is authorized to assess administrative penalties for failure to comply with the requirements of the Florida Safe Drinking Water Act.~~

~~(a) Prior to the assessment of an administrative penalty, the department shall provide the public water system a reasonable amount of time to complete the corrective action necessary to bring the system back into compliance.~~

~~(b)1. At the time of assessment of the administrative penalty, the department shall give the public water system notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective, unless an administrative hearing is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69.~~

~~2. The department shall adopt rules to implement the provisions of this subsection. The rules shall establish specific procedures for implementing the penalties and shall identify assessment amounts. The rules shall authorize the application of adjustment factors for the purpose of increasing or decreasing the total amount assessed subsequent to initial assessment. Such factors may include the lack or degree of good faith to comply with the requirements, the lack or degree of willfulness or negligence on the part of the owner, the compliance history of the public water system, the economic benefit derived by the failure to comply with the requirements, and the ability to pay.~~

~~(c) The amount of the penalties assessed shall be as follows:~~

~~1. In the case of a public water system serving a population of more than 10,000, the penalty shall be not less than $1,000 per day per violation.~~

~~2. In the case of any other public water system, the penalty shall be adequate to ensure compliance.~~

~~However, the total amount of the penalty assessed on any public water system may not exceed $10,000 per violation.~~

Section 6. *Two years after the effective date of this act, the Department of Environmental Protection shall submit a report to the Legislature describing the number of notices of violation issued by the department seeking the imposition of administrative penalties, the amount of administrative penalties obtained by the department, and the efficiencies gained from the provisions of this act.*

Section 7. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, line 1 through page 4 line 2
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to environmental control; amending s. 369.25, F.S.; granting the Department of Environmental Protection additional enforcement powers for aquatic plant control; amending ss. 403.121, 403.131, 403.727, 403.860, F.S.; revising judicial and administrative remedies for violations of environmental laws; providing for administrative penalties; requiring the Department of Environmental Protection to report to the Legislature; providing an effective date.

Rep. Goodlette moved the adoption of the amendment.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 471999)

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

and insert in lieu thereof:

Section 1. Paragraph (k) is added to subsection (3) of section 369.25, Florida Statutes, to read:

369.25 Aquatic plants; definitions; permits; powers of department; penalties.—

(3) The department has the following powers:

(k) To enforce this chapter in the same manner and to the same extent as provided in ss. 403.121, 403.131, 403.141, and 403.161.

Section 2. Section 403.121, Florida Statutes, is amended to read:

403.121 Enforcement; procedure; remedies.—The department shall have the following judicial and administrative remedies available to it for violations of this chapter, as specified in s. 403.161(1).

(1) Judicial remedies:

(a) The department may institute a civil action in a court of competent jurisdiction to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, and aquatic life, of the state caused by any violation.

(b) The department may institute a civil action in a court of competent jurisdiction to impose and to recover a civil penalty for each violation in an amount of not more than $10,000 per offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense.

(c) *Except as provided in paragraph (2)(c),* it shall not be a defense to, or ground for dismissal of, these judicial remedies for damages and civil penalties that the department has failed to exhaust its administrative remedies, has failed to serve a notice of violation, or has failed to hold an administrative hearing prior to the institution of a civil action.

(2) Administrative remedies:

(a) The department may institute an administrative proceeding to establish liability and to recover damages for any injury to the air, waters, or property, including animal, plant, or aquatic life, of the state caused by any violation. The department may order that the violator pay a specified sum as damages to the state. Judgment for the amount of damages determined by the department may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(b) If the department has reason to believe a violation has occurred, it may institute an administrative proceeding to order the prevention, abatement, or control of the conditions creating the violation or other appropriate corrective action. *Except for violations involving hazardous wastes, asbestos, or underground injection, the department shall proceed administratively in all cases in which the department seeks administrative penalties that do not exceed $10,000 per assessment as calculated in accordance with subsections (3), (4), (5), (6), and (7). The department shall not impose administrative penalties in excess of $10,000 in a notice of violation. The department shall not have more than one notice of violation seeking administrative penalties pending against the same party at the same time unless the violations occurred at a different site or the violations were discovered by the department subsequent to the filing of a previous notice of violation.*

(c) An administrative proceeding shall be instituted by the department's serving of a written notice of violation upon the alleged violator by certified mail. *If the department is unable to effect service by certified mail, the notice of violation may be hand-delivered or personally served in accordance with chapter 48.* The notice shall specify the provision of the law, rule, regulation, permit, certification, or order of the department alleged to be violated and the facts alleged to constitute a violation thereof. An order for corrective action*, penalty assessment, or damages* may be included with the notice. *When the department is seeking to impose an administrative penalty for any violation by issuing a notice of violation, any corrective action needed to correct the violation or damages caused by the violation must be pursued in the notice of violation or they are waived.* However, no order shall become effective until after service and an administrative hearing, if requested within 20 days after service. Failure to request an administrative hearing within this time period shall constitute a waiver thereof, *unless the respondent files a written notice with the department within this time period opting out of the administrative process initiated by the department to impose administrative penalties. Any respondent choosing to opt out of the administrative process initiated by the department in an action that seeks the imposition of administrative penalties must file a written notice with the department within 20 days after service of the notice of violation opting out of the administrative process. A respondent's decision to opt out of the administrative process does not preclude the department from initiating a state court action seeking injunctive relief, damages, and the judicial imposition of civil penalties.*

(d) If a person timely files a petition challenging a notice of violation, that person will thereafter be referred to as the respondent. The hearing requested by the respondent shall be held within 180 days after the department has referred the initial petition to the Division of Administrative Hearings unless the parties agree to a later date. The department has the burden of proving with the preponderance of the evidence that the respondent is responsible for the violation. No administrative penalties should be imposed unless the department satisfies that burden. Following the close of the hearing, the administrative law judge shall issue a final order on all matters, including the imposition of an administrative penalty. When the department seeks to enforce that portion of a final order imposing administrative penalties pursuant to s. 120.69, the respondent shall not assert as a defense the inappropriateness of the administrative remedy. The department retains its final-order authority in all administrative actions that do not request the imposition of administrative penalties.

(e) After filing a petition requesting a formal hearing in response to a notice of violation in which the department imposes an administrative penalty, a respondent may request that a private mediator be appointed to mediate the dispute by contacting the Florida Conflict Resolution Consortium within 10 days after receipt of the Initial Order from the administrative law judge. The Florida Conflict Resolution Consortium shall pay all of the costs of the mediator and for up to 8 hours of the mediator's time per case at $150 per hour. Upon notice from the respondent, the Florida Conflict Resolution Consortium shall provide to the respondent a panel of possible mediators from the area in which the hearing on the petition would be heard. The respondent shall select the mediator and notify the Florida Conflict Resolution Consortium of the selection within 15 days of receipt of the proposed panel of mediators. The Florida Conflict Resolution Consortium shall provide all of the administrative support for the mediation process. The mediation must be completed at least 15 days before the final-hearing date set by the administrative law judge.

(f) In any administrative proceeding brought by the department, the prevailing party shall recover all costs as provided in ss. 57.041 and 57.071. The costs must be included in the final order. The respondent is the prevailing party when an order is entered awarding no penalties to the department and such order has not been reversed on appeal or the time for seeking judicial review has expired. The respondent shall be entitled to an award of attorney's fees if the administrative law judge determines that the notice of violation issued by the department seeking the imposition of administrative penalties was not substantially justified as defined in s. 57.111(3)(e). No award of attorney's fees as provided by this subsection shall exceed $15,000.

(g)~~(d)~~ Nothing herein shall be construed as preventing any other legal or administrative action in accordance with law. *Nothing in this subsection shall limit the department's authority provided in ss. 403.121, 403.131, and 403.141, to judicially pursue injunctive relief. When the department exercises its authority to judicially pursue injunctive relief, penalties in any amount up to the statutory maximum sought by the department must be pursued as part of the state court action and not by initiating a separate administrative proceeding. The department retains the authority to judicially pursue penalties in excess of $10,000 for violations not specifically included in the administrative penalty schedule, or for multiple or multi-day violations alleged to exceed a total of $10,000. The department also retains the authority provided in ss. 403.121, 403.131, and 403.141, to judicially pursue injunctive relief and damages, if a notice of violation seeking the imposition of administrative penalties has not been issued. The department has the authority to enter into a settlement, either before or after initiating a notice of violation, and the settlement may include a penalty amount different from the administrative penalty schedule. Any case filed in state court because it is alleged to exceed a total of $10,000 in penalties may be settled in the court action for less than $10,000.*

(h) Chapter 120 shall apply to any administrative action taken by the department or any delegated program pursuing administrative penalties in accordance with this section.

(3) Except for violations involving hazardous wastes, asbestos, or underground injection, administrative penalties must be calculated according to the following schedule:

(a) For a drinking water contamination violation, the department shall assess a penalty of $2,000 for a Maximum Containment Level (MCL) violation; plus $1,000 if the violation is for a primary inorganic, organic, or radiological Maximum Contaminant Level or it is a fecal coliform bacteria violation; plus $1,000 if the violation occurs at a community water system; and plus $1,000 if any Maximum Contaminant Level is exceeded by more than 100 percent. For failure to

obtain a clearance letter prior to placing a drinking water system into service when the system would not have been eligible for clearance, the department shall assess a penalty of $3,000.

(b) For failure to obtain a required wastewater permit, other than a permit required for surface water discharge, the department shall assess a penalty of $1,000. For a domestic or industrial wastewater violation not involving a surfacewater or groundwater quality violation, the department shall assess a penalty of $2,000 for an unpermitted or unauthorized discharge or effluent-limitation exceedance. For an unpermitted or unauthorized discharge or effluent-limitation exceedance that resulted in a surfacewater or groundwater quality violation, the department shall assess a penalty of $5,000.

(c) For a dredge and fill or stormwater violation, the department shall assess a penalty of $1,000 for unpermitted or unauthorized dredging or filling or unauthorized construction of a stormwater management system against the person or persons responsible for the illegal dredging or filling, or unauthorized construction of a stormwater management system plus $2,000 if the dredging or filling occurs in an Aquatic Preserve, Outstanding Florida Water, conservation easement, or Class I or Class II surfacewater, plus $1,000 if the area dredged or filled is greater than one-quarter acre but less than or equal to one-half acre, and plus $1,000 if the area dredged or filled is greater than one-half acre but less than or equal to one acre. The administrative penalty schedule shall not apply to a dredge and fill violation if the area dredged or filled exceeds one acre. The department retains the authority to seek the judicial imposition of civil penalties for all dredge and fill violations involving more than one acre. The department shall assess a penalty of $3,000 for the failure to complete required mitigation, failure to record a required conservation easement, or for a water quality violation resulting from dredging or filling activities, stormwater construction activities or failure of a stormwater treatment facility. For stormwater management systems serving less than five acres, the department shall assess a penalty of $2,000 for the failure to properly or timely construct a stormwater management system. In addition to the penalties authorized in this subsection, the department shall assess a penalty of $5,000 per violation against the contractor or agent of the owner or tenant that conducts unpermitted or unauthorized dredging or filling.

(d) For mangrove trimming or alteration violations, the department shall assess a penalty of $5,000 per violation against the contractor or agent of the owner or tenant that conducts mangrove trimming or alteration without a permit as required by s. 403.9328.

(e) For solid waste violations, the department shall assess a penalty of $2,000 for the unpermitted or unauthorized disposal or storage of solid waste; plus $1,000 if the solid waste is Class I or Class III (excluding yard trash) or if the solid waste is construction and demolition debris in excess of 20 cubic yards, plus $1,000 if the waste is disposed of or stored in any natural or artificial body of water or within 500 feet of a potable water well, plus $1,000 if the waste contains PCB at a concentration of 50 parts per million or greater; untreated biomedical waste; friable asbestos greater than 1 cubic meter which is not wetted, bagged, and covered; used oil greater than 25 gallons; or 10 or more lead acid batteries. The department shall assess a penalty of $3,000 for failure to properly maintain leachate control; unauthorized burning; failure to have a trained spotter on duty at the working face when accepting waste; failure to provide access control for three consecutive inspections. The department shall assess a penalty of $2,000 for failure to construct or maintain a required stormwater management system.

(f) For an air emission violation, the department shall assess a penalty of $1,000 for an unpermitted or unauthorized air emission or an air-emission-permit exceedance, plus $1,000 if the emission results in an air quality violation, plus $3,000 if the emission was from a major source and the source was major for the pollutant in violation; plus $1,000 if the emission was more than 150 percent of the allowable level.

(g) For storage tank system and petroleum contamination violations, the department shall assess a penalty of $5,000 for failure to empty a damaged storage system as necessary to ensure that a release does not occur until repairs to the storage system are completed; when a release has occurred from that storage tank system; for failure to timely recover free product; or for failure to conduct remediation or monitoring activities until a no-further-action or site-rehabilitation completion order has been issued. The department shall assess a penalty of $3,000 for failure to timely upgrade a storage tank system. The department shall assess a penalty of $2,000 for failure to conduct or maintain required release detection; failure to timely investigate a suspected release from a storage system; depositing motor fuel into an unregistered storage tank system; failure to timely assess or remediate petroleum contamination; or failure to properly install a storage tank system. The department shall assess a penalty of $1,000 for failure to properly operate, maintain, or close a storage tank system.

~~(3)(a) In addition to any judicial or administrative remedy authorized by this part, the department may assess a noncompliance fee for failure of any owner or operator of a domestic wastewater treatment facility to comply with a permit condition that requires the submittal of monthly operating reports or the reporting of the characteristics of the waste stream or the effects of the facility on surface or ground water. For the first and second violations of the reporting requirements, the fee shall not be assessed until the department has given the owner or operator at least 30 days to comply with the reporting requirement. The time shall not begin until the department has given the owner or operator written notice of the facts alleged to constitute the reporting violation, the specific provision of law, rule, or order alleged to have been violated by the owner or operator, the corrective action needed to bring the facility into compliance, and the potential penalties that may be imposed as a result of the owner's or operator's failure to comply with the notice. For subsequent violations, the department does not have to provide 30 days' written notice of the violations prior to assessing a noncompliance fee, except as follows:~~

~~1. If any additional reporting violations occur prior to the expiration of either of the 30-day notices issued by the department, the department must provide the owner or operator with 30 days' written notice to correct these violations as well.~~

~~2. Upon the renewal of the permit, the department shall reinstate the 30-day notice requirements provided in this subsection prior to assessing a noncompliance fee during the new permit period.~~

~~(b) At the time of assessment of a noncompliance fee, the department shall give the owner or operator written notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective unless an administrative proceeding is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69. Once the assessment has become final and effective, the department may refuse to issue, modify, transfer, or renew a permit to the facility until the fee has been paid.~~

~~(c) Before assessing a noncompliance fee, the department shall adopt rules to implement the provisions of this subsection. The rules shall establish specific procedures and assessment amounts for noncompliance fees authorized by paragraph (a). Noncompliance fees shall be set on a sliding scale based upon the type of violation, the degree of noncompliance, and the potential for harm. Such rules shall also authorize the application of adjustment factors subsequent to the initial assessment to increase or decrease the total amount assessed, such as the good faith efforts or the lack of good faith efforts of the owner or operator to comply with the reporting requirement, the lack of or degree of willfulness or negligence on the part of the owner or operator, the economic benefits associated with the owner's or operator's failure to comply, the owner's or operator's previous history of reporting violations, and the owner's or operator's ability to pay the noncompliance fee. No noncompliance fee shall exceed $250, and total noncompliance fees assessed shall not exceed $1,000 per assessment for all reporting violations attributable to a specific facility during any one month. No noncompliance fee may be assessed unless the department has, within 90 days of the reporting violation, provided the owner or operator written notice of the violation.~~

~~(d) The department's assessment of a noncompliance fee shall be in lieu of any civil action which may be instituted by the department in a court of competent jurisdiction to impose and recover civil penalties for any violation that resulted in the fee assessment, unless the department initiates a civil action for nonpayment of a fee properly assessed pursuant to this subsection.~~

~~(e) Fees collected pursuant to this subsection shall be deposited in the Ecosystem Management and Restoration Trust Fund. The department may use a portion of the fund to contract for services to help in the collection of the fees assessed pursuant to this subsection.~~

(4) In an administrative proceeding, in addition to the penalties that may be assessed under subsection (3), the department shall assess administrative penalties according to the following schedule:

(a) For failure to satisfy financial responsibility requirements or for violation of s. 377.371(1), $5,000.

(b) For failure to install, maintain, or use a required pollution control system or device, $4,000.

(c) For failure to obtain a required permit before construction or modification, $3,000.

(d) For failure to conduct required monitoring or testing; failure to conduct required release detection; or failure to construct in compliance with a permit, $2,000.

(e) For failure to maintain required staff to respond to emergencies; failure to conduct required training; failure to prepare, maintain, or update required contingency plans; failure to adequately respond to emergencies to bring an emergency situation under control; or failure to submit required notification to the department, $1,000.

(f) For failure to prepare, submit, maintain, or use required reports or other required documentation, $500.

(5) For failure to comply with any other departmental regulatory statute or rule requirement not otherwise identified in this section, the department may assess a penalty of $500.

(6) For each additional day during which a violation occurs, the administrative penalties in subsection (3), subsection (4), and subsection (5) may be assessed per day per violation.

(7) The history of noncompliance of the violator for any previous violation resulting in an executed consent order, but not including a consent order entered into without a finding of violation, or resulting in a final order or judgment after the effective date of this law involving the imposition of $2,000 or more in penalties shall be taken into consideration in the following manner:

(a) One previous such violation within 5 years prior to the filing of the notice of violation will result in a 25 percent per day increase in the scheduled administrative penalty.

(b) Two previous such violations within 5 years prior to the filing of the notice of violation will result in a 50 percent per day increase in the scheduled administrative penalty.

(c) Three or more previous such violations within 5 years prior to the filing of the notice of violation will result in a 100 percent per day increase in the scheduled administrative penalty.

(8) The direct economic benefit gained by the violator from the violation, where consideration of economic benefit is provided by Florida law or required by federal law as part of a federally delegated or approved program, shall be added to the scheduled administrative penalty. The total administrative penalty, including any economic benefit added to the scheduled administrative penalty, shall not exceed $10,000.

(9) The administrative penalties assessed for any particular violation as described in subsection (8) shall not exceed $5,000 against any one violator, unless the violator has a history of noncompliance, the economic benefit of the violation exceeds $5,000, or there are multi-day violations. The total administrative penalties shall not exceed $10,000 per assessment for all violations attributable to a specific person in the notice of violation.

(10) The administrative law judge may receive evidence in mitigation. The penalties identified in subsection (3), subsection (4), and subsection (5) may be reduced up to 50 percent by the administrative law judge for mitigating circumstances, including good faith efforts to comply prior to or after discovery of the violations by the department. Upon an affirmative finding that the violation was caused by circumstances beyond the reasonable control of the respondent and could not have been prevented by respondent's due diligence, the administrative law judge may further reduce the penalty.

(11) Penalties collected pursuant to this section shall be deposited in the Ecosystem Management and Restoration Trust Fund or other trust fund designated by statute and shall be used to fund the restoration of ecosystems, or polluted areas of the state, as defined by the department, to their condition before pollution occurred. The Florida Conflict Resolution Consortium may use a portion of the fund to administer the mediation process provided in paragraph (2)(e) and to contract with private mediators for administrative penalty cases.

(12) The purpose of the administrative penalty schedule and process is to provide a more predictable and efficient manner for individuals and businesses to resolve relatively minor environmental disputes. Subsection (3), subsection (4), subsection (5), subsection (6), or subsection (7) shall not be construed as limiting a state court in the assessment of damages. The administrative penalty schedule does not apply to the judicial imposition of civil penalties in state court as provided in this section.

Section 3. Section 403.131, Florida Statutes, is amended to read:

403.131 Injunctive relief, ~~cumulative~~ remedies.—

(1) The department may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this chapter or any rule, regulation, permit certification, or order; to enjoin any violation specified in s. 403.161(1); and to seek injunctive relief to prevent irreparable injury to the air, waters, and property, including animal, plant, and aquatic life, of the state and to protect human health, safety, and welfare caused or threatened by any violation.

(2) All the judicial and administrative remedies *to recover damages and penalties* in this section and s. 403.121 ~~are independent and cumulative except that the judicial and administrative remedies to recover damages~~ are alternative and mutually exclusive.

Section 4. Subsection (3) of section 403.727, Florida Statutes, is amended to read:

403.727 Violations; defenses, penalties, and remedies.—

(3) Violations of the provisions of this act are punishable as follows:

(a) Any person who violates the provisions of this act, the rules or orders of the department, or the conditions of a permit is liable to the state for any damages specified in s. 403.141 and for a civil penalty of not more than $50,000 for each day of continued violation, except as otherwise provided herein. The department may revoke any permit issued to the violator. In any action by the department against a small hazardous waste generator for the improper disposal of hazardous wastes, a rebuttable presumption of improper disposal shall be created if the generator was notified pursuant to s. 403.7234; the generator shall then have the burden of proving that the disposal was proper. If the generator was not so notified, the burden of proving improper disposal shall be placed upon the department.

(b) Any person who knowingly or by exhibiting reckless indifference or gross careless disregard for human health:

1. Transports or causes to be transported any hazardous waste, as defined in s. 403.703, to a facility which does not have a permit when such a permit is required under s. 403.707 or s. 403.722;

2. Disposes of, treats, or stores hazardous waste:

a. At any place but a hazardous waste facility which has a current and valid permit pursuant to s. 403.722;

b. In knowing violation of any material condition or requirement of such permit if such violation has a substantial likelihood of endangering human health, animal or plant life, or property; or

c. In knowing violation of any material condition or requirement of any applicable rule or standard if such violation has a substantial likelihood of endangering human health, animal or plant life, or property;

3. Makes any false statement or representation or knowingly omits material information in any hazardous waste application, label, manifest, record, report, permit, or other document required by this act;

4. Generates, stores, treats, transports, disposes of, or otherwise handles any hazardous waste and who knowingly destroys, alters, conceals, or fails to file any record, application, manifest, report, or other document required to be maintained or filed for purposes of compliance with this act; or

5. Transports without a manifest, or causes to be transported without a manifest, any hazardous waste required by rules adopted by the department to be accompanied by a manifest

is, upon conviction, guilty of a felony of the third degree, punishable for the first such conviction by a fine of not more than $50,000 for each day of violation or imprisonment not to exceed 5 years, or both, and for any subsequent conviction by a fine of not more than $100,000 per day of violation or imprisonment of not more than 10 years, or both.

~~(c)1. As used in this paragraph, "Class II violation" means a violation of this part, or the rules promulgated pursuant to this part, which pertains to small quantity generators as defined by applicable department rules and which does not result in a discharge or serious threat of a discharge of hazardous waste to the environment, or does not involve the failure to ensure that groundwater will be protected or that hazardous waste will be destined for and delivered to permitted facilities. Class II violations shall include, but need not be limited to, the failure to submit manifest exception reports in a timely manner, failure to provide a generator's United States Environmental Protection Agency identification number on the manifest, failure to maintain complete personnel training records, and failure to meet inspection schedule requirements for tanks and containers that hold hazardous waste.~~

~~2. In addition to any other judicial or administrative remedy authorized by this part, the department may assess a noncompliance fee for any Class II violation by a small quantity generator. For the first and second violations, the fee shall not be assessed until the generator has failed to comply after notice of noncompliance and has been given a reasonable time to comply. If the owner or operator fails after three or more notifications to comply with the requirement to correct the Class II violation, the department may assess the fee without waiting for compliance.~~

~~3. At the time of assessment of a noncompliance fee, the department shall give the small quantity generator written notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective unless an administrative proceeding is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69. Once the assessment has become final and effective, the department shall refuse to issue, modify, transfer, or renew a permit or issue an identification number to the facility until the fee has been paid.~~

~~4. Before assessing any noncompliance fee, the department shall adopt rules to implement the provisions of this paragraph, which shall include a description of activities that constitute Class II violations and the setting of appropriate amounts for the noncompliance fees, based upon the type of violation, but not to exceed $250. Total noncompliance fees assessed shall not exceed $1,000 per assessment for all violations attributable to a specific facility during any one month.~~

~~5. The department's assessment of a noncompliance fee shall be in lieu of any civil action that may be instituted by the department in a court of competent jurisdiction to impose and recover civil penalties for any violation that resulted in the fee assessment, unless the department initiates a civil action for nonpayment of a fee properly assessed pursuant to this paragraph.~~

~~6. Noncompliance fees collected pursuant to this paragraph shall be deposited in the Ecosystem Management and Restoration Trust Fund. The department may use a portion of the fund to contract for services to help in the collection of fees assessed pursuant to this paragraph.~~

Section 5. Subsections (5) and (6) of section 403.860, Florida Statutes, are amended to read:

403.860 Penalties and remedies.—

(5) In addition to any judicial or administrative remedy authorized by this part, the department or a county health department that has received approval by the department pursuant to s. 403.862(1)(c) *shall* ~~may~~ assess *administrative penalties for violations of this section in accordance with s. 403.121* ~~a noncompliance fee for failure of any supplier of water of a public water system to comply with department requirements for the reporting, in the manner and time provided by department rule, of test results for microbiological, inorganic, or organic contaminants; or turbidity, radionucleides, or secondary standards~~.

~~(a) For the first and second violations of the microbiological reporting requirements, and for the first violation of other reporting requirements, the fee shall not be assessed until the department has given the supplier at least 30 days to comply with the reporting requirement. The time shall not begin until the department has given the supplier written notice of the facts alleged to constitute the reporting violation, the specific provision of law, rule, or order alleged to have been violated by the owner or operator, the corrective action needed to bring the facility into compliance, and the potential penalties that may be imposed as a result of the supplier's failure to comply with the notice. For subsequent violations of the microbiological reporting requirements, the department does not have to provide 30-day written notice of the violations prior to assessing a noncompliance fee, provided, however, that if any additional reporting violations occur prior to the expiration of either 30-day notice issued by the department, the department must provide the supplier with a 30-day written notice to correct those violations as well. Upon expiration of 36 months, the department shall reinstate the 30-day notice requirements provided in this subsection prior to assessing a noncompliance fee.~~

~~(b) At the time of assessment of a noncompliance fee, the department shall give the supplier written notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective unless an administrative proceeding is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69.~~

~~(c) Before assessing a noncompliance fee, the department shall adopt rules to implement the provisions of this subsection. The rules shall establish specific procedures and assessment amounts for noncompliance fees authorized by paragraph (a). Noncompliance fees shall be set on a sliding scale based upon the type of violation, the degree of noncompliance, and the potential for harm. Such rules shall also authorize the application of adjustment factors subsequent to initial assessment to increase or decrease the total amount assessed, such as the good faith efforts or the lack of good faith efforts of the supplier to comply with the reporting requirements, the lack of or degree of willfulness or negligence on the part of the supplier, the economic benefits associated with the supplier's failure to comply with the~~

~~reporting violation, the supplier's previous history of reporting violations, and the supplier's ability to pay the noncompliance fee.~~

~~(d) For microbiological reporting requirements, no noncompliance fee shall exceed $250, and total noncompliance fees assessed shall not exceed $1,000 per assessment for all reporting violations attributable to a specific facility during any one month.~~

~~(e) For violations of reporting requirements other than microbiological, the fee shall be no greater than $50 per day for each day of violation, and the total amount assessed shall not exceed $2,000.~~

~~(f) The department's assessment of a noncompliance fee shall be in lieu of any civil action which may be instituted by the department in a court of competent jurisdiction to impose and recover civil penalties for any violation that resulted in the fee assessment, unless the department initiates a civil action for nonpayment of a fee properly assessed pursuant to this subsection.~~

~~(g) No noncompliance fee may be assessed unless the department has, within 90 days of the reporting violation, provided the supplier written notice of the violation.~~

~~(6) The department is authorized to assess administrative penalties for failure to comply with the requirements of the Florida Safe Drinking Water Act.~~

~~(a) Prior to the assessment of an administrative penalty, the department shall provide the public water system a reasonable amount of time to complete the corrective action necessary to bring the system back into compliance.~~

~~(b)1. At the time of assessment of the administrative penalty, the department shall give the public water system notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective, unless an administrative hearing is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69.~~

~~2. The department shall adopt rules to implement the provisions of this subsection. The rules shall establish specific procedures for implementing the penalties and shall identify assessment amounts. The rules shall authorize the application of adjustment factors for the purpose of increasing or decreasing the total amount assessed subsequent to initial assessment. Such factors may include the lack or degree of good faith to comply with the requirements, the lack or degree of willfulness or negligence on the part of the owner, the compliance history of the public water system, the economic benefit derived by the failure to comply with the requirements, and the ability to pay.~~

~~(c) The amount of the penalties assessed shall be as follows:~~

~~1. In the case of a public water system serving a population of more than 10,000, the penalty shall be not less than $1,000 per day per violation.~~

~~2. In the case of any other public water system, the penalty shall be adequate to ensure compliance.~~

~~However, the total amount of the penalty assessed on any public water system may not exceed $10,000 per violation.~~

Section 6. *Two years after the effective date of this act, the Department of Environmental Protection shall submit a report to the Legislature describing the number of notices of violation issued by the department seeking the imposition of administrative penalties, the amount of administrative penalties obtained by the department, and the efficiencies gained from the provisions of this act.*

Section 7. This act shall take effect upon becoming a law.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to environmental control; amending s. 369.25, F.S.; granting the Department of Environmental Protection additional enforcement powers for aquatic plant control; amending ss. 403.121, 403.131, 403.727, 403.860, F.S.; revising judicial and administrative remedies for violations of environmental laws; providing for administrative penalties; requiring the Department of Environmental Protection to report to the Legislature; providing for legislative review; providing an effective date.

Rep. Goodlette moved the adoption of the substitute amendment.

Representative(s) Goodlette offered the following:

(Amendment Bar Code: 280277)

Amendment 1 to Substitute Amendment 1—On page 14, line 30 through page 15, line 2
remove from the substitute amendment: all of said lines

and insert in lieu thereof: *particular violation shall not exceed $5,000 against any one violator, unless the violator has a history of nomcompliance, the economic benefit of the violation as described in subsection (8) exceeds $5,000, or there are multi-day violations.*

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

Representative(s) Bennett offered the following:

(Amendment Bar Code: 070509)

Amendment 2 to Substitute Amendment 1 (with title amendment)—On page 24, between lines 24 and 25,

insert:

Section 7. Subsection (7) of section 373.0693, Florida Statutes, is amended to read:

373.0693 Basins; basin boards.—

(7) At 11:59 p.m. on December 31, 1976, the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District, which is annexed to the Southwest Florida Water Management District by change of its boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the Southwest Florida Water Management District, subject to the same provisions as the other basins in such district. Such subdistrict shall be designated initially as the Manasota Basin. The members of the governing board of the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District shall become members of the governing board of the Manasota Basin of the Southwest Florida Water Management District. *Notwithstanding other provisions in this section, beginning on July 1, 2001, the membership of the Manasota Basin Board shall be comprised of three members from Manatee County and three members from Sarasota County. Matters relating to tie votes shall be resolved pursuant to subsection (6) by the ex officio chair designated by the governing board to vote in case of a tie vote.*

And the title is amended as follows:

On page 25, line 9, after the semicolon

insert: amending s. 373.0693, F.S.; providing for membership on the Manasota Basin Board and for the resolution of tie votes;

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

The question recurred on the adoption of **Substitute Amendment 1**, as amended, which was adopted.

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

CS/HB 729—A bill to be entitled An act relating to environmental control; amending s. 403.813, F.S.; creating an exemption from permitting requirements under ch. 403, F.S., for the removal of invasive

plants and the removal of organic detrital material from freshwater lakes and rivers under specified conditions; precluding additional state or local approval requirements for floating vessel platforms within boat slips; amending s. 253.12, F.S.; precluding additional state or local approval requirements for floating vessel platforms within boat slips; providing an effective date.

—was read the second time by title.

Representative(s) Needelman offered the following:

(Amendment Bar Code: 701965)

Amendment 1—On page 1, line 26 after the word "however," of the bill
except as otherwise provided in this subsection,

insert:

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

Representative(s) Argenziano offered the following:

(Amendment Bar Code: 853989)

Amendment 2 (with directory language amendment)—On page 2, between lines 2 and 3 of the bill

insert:

(r) The removal of aquatic plants, the removal of tussocks, the associated replanting of indigenous aquatic plants, or the associated removal from lakes of organic material when such planting or removal is performed and authorized by permit or exemption granted under s. 369.20 or s. 369.25, if:

1. Organic material that exists on the surface of natural mineral soil shall be allowed to be removed to a depth of 3 feet or to the natural mineral soils, whichever is less.

2. All organic material removal pursuant to this subsection shall be deposited in an upland site in a manner that will prevent the reintroduction of the material into waters in the state except when spoil material is permitted to be used to create wildlife islands in freshwater bodies of the state when a governmental entity is permitted pursuant to this section to create such islands as a part of a restoration or enhancement project.

3. All activities are performed in a manner consistent with state water quality standards.

4. No activities under this exemption are conducted in wetland areas, as defined by s. 373.019(22), which are supported by a natural soil as shown in applicable U.S. Department of Agriculture county soil surveys, except when a governmental entity is permitted pursuant to s. 369.20 to conduct such activities as a part of a restoration or enhancement project.

And the directory language is amended as follows:

On page 1, lines 18
remove: all of said line

and insert in lieu thereof:

Section 1. Paragraph (r) is amended and paragraph (s) is added to subsection (2) of:

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

Representative(s) Argenziano offered the following:

(Amendment Bar Code: 850547)

Amendment 3—On page 2, between lines 10 and 11 of the bill

insert:

1. No activities under this exemption are conducted in wetland areas as defined by s. 373.019(22), that are supported by a natural soil as shown in applicable U.S. Department of Agriculture county soil surveys.

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

Representative(s) Needelman offered the following:

(Amendment Bar Code: 865659)

Amendment 4 (with title amendment)—On page 4, lines 7 through 25
remove from the bill: all of said lines

and insert in lieu thereof:

(t) A floating vessel platform or floating boat lift either of which floats at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use, provided that:

1. Such structures are wholly contained within a boat slip previously permitted under ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or Part IV of chapter 373, or, when associated with a dock that is exempt under this subsection or a permitted dock with no defined boat slip, such structures do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water.

2. Such structures shall not be used for any commercial purpose or for mooring additional vessels that remain in the water when not in use, and shall not substantially impede the flow of water, creat a navigational hazard, or unreasonably infringe upon the traditional, or common law riparian rights of adjacent property owners, as defined in s. 253.141;

3. Such structures shall be constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities; including locating such structures in areas where no seagrasses exist if such areas are present adjacent to the dock; and

4. Such structures shall not be constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or Part IV of Chapter 373, or other form of authorization issued by a local government.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund and shall not be subject to any more stringent regulation by any local government. The exemption provided in this paragraph shall be in addition to the exemption provided in paragraph (b). By January 1, 2002, the department shall adopt a general permit by rule for those floating vessel platforms that do not qualify for the exemptions provided in this paragraph, but do not cause significant adverse impacts to occur individually or cumulatively. The issuance of such general permit shall also constitute permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund. Upon the adoption of the rule creating such general permit, no local government shall impose a more stringent regulation on floating vessel platforms covered by such general permit.

And the title is amended as follows:

On page 1, lines 11 through 13
remove from the title of the bill: all of said lines

and insert in lieu thereof: providing guidelines;

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

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

HB 1863—A bill to be entitled An act relating to onsite sewage treatment and disposal systems; amending s. 381.0065, F.S.; providing

for regulation by the Department of Health of maintenance entities for performance-based treatment systems and aerobic treatment unit systems; requiring such systems to contract with a permitted maintenance entity; providing duties of such entities; providing for biennial operating permits for aerobic treatment units; revising duties of the department; amending s. 381.0066, F.S.; reducing the operating permit fee for aerobic treatment units and providing operating permit and maintenance entity permit fees for performance-based treatment systems; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

REPRESENTATIVE DIAZ-BALART IN THE CHAIR

HB 1439—A bill to be entitled An act relating to health insurance; amending s. 627.410, F.S.; requiring certain group certificates for health insurance coverage to be subject to the requirements for individual health insurance policies; exempting group health insurance policies insuring groups of a certain size from rate filing requirements; providing alternative rate filing requirements for insurers with less than a specified number of nationwide policyholders or members; amending s. 627.411, F.S.; revising the grounds for the disapproval of insurance policy forms; providing that a health insurance policy form may be disapproved if it results in certain rate increases; specifying allowable new business rates and renewal rates if rate increases exceed certain levels; authorizing the Department of Insurance to determine medical trend for purposes of approving rate filings; amending s. 627.6487, F.S.; revising the types of policies that individual health insurers must offer to persons eligible for guaranteed individual health insurance coverage; prohibiting individual health insurers from applying discriminatory underwriting or rating practices to eligible individuals; amending s. 627.6515, F.S.; requiring that coverage issued to a state resident under certain group health insurance policies issued outside the state be subject to the requirements for individual health insurance policies; amending s. 627.6699, F.S.; revising definitions used in the Employee Health Care Access Act; allowing carriers to separate the experience of small employer groups with fewer than two employees; revising the rating factors that may be used by small employer carriers; amending s. 627.6741, F.S.; requiring that insurers offer Medicare supplement policies to certain individuals; amending s. 627.9408, F.S.; authorizing the department to adopt by rule certain provisions of the Long-Term Care Insurance Model Regulation, as adopted by the National Association of Insurance Commissioners; amending s. 641.31, F.S.; exempting contracts of group health maintenance organizations covering a specified number of persons from the requirements of filing with the department; specifying the standards for department approval and disapproval of a change in rates by a health maintenance organization; providing alternative rate filing requirements for organizations with less than a specified number of subscribers; providing an effective date.

—was read the second time by title.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 091307)

Amendment 1—On page 3, lines 28-29,
remove from the bill: all of said lines

and insert in lieu thereof: *to determine coverage eligibility for an individual or premium rates to be charged to an individual, shall be considered policies issued on an individual*

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 193575)

Amendment 2—On page 4, line 11, of the bill

after "*policies*" insert: *, effectuated and delivered in this state,*

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 895715)

Amendment 3—On page 5, line 28, through page 7, line 28,
remove: all of said lines

and insert in lieu thereof:

4. Results in actuarially justified rate increases on an annual basis:

a. Attributed to the insurer reducing the portion of the premium used to pay claims from the loss ratio standard certified in the last actuarial certification filed by the insurer, in excess of the greater of 50 percent of annual medical trend or 5 percent. At its option, the insurer may file for approval of an actuarially justified new business rate schedule for new insureds and a rate increase for existing insureds that is equal to the rate increase which equals the greater of 150 percent of annual medical trend or 10 percent. Future annual rate increases for existing insureds shall be limited to the greater of 150 percent of the rate increase approved for new insureds or 10 percent until the two rate schedules converge;

b. In excess of the greater of 150 percent of annual medical trend or 10 percent and the company did not comply with the annual filing requirements of s. 627.410(7) or department rule for health maintenance organizations pursuant to s. 641.31. At its option the insurer may file for approval of an actuarially justified new business rate schedule for new insureds and a rate increase for existing insureds that is equal to the rate increase allowed by the preceding sentence. Future annual rate increases for existing insureds shall be limited to the greater of 150 percent of the rate increase approved for new insureds or 10 percent until the two rate schedules converge; or

c. In excess of the greater of 150 percent of annual medical trend or 10 percent on a form or block of pooled forms in which no form is currently available for sale.

(f) Excludes coverage for human immunodeficiency virus infection or acquired immune deficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of such contract, for human immunodeficiency virus infection or acquired immune deficiency syndrome which are different than those which apply to any other sickness or medical condition.

(2) In determining whether the benefits are reasonable in relation to the premium charged, the department, in accordance with reasonable actuarial techniques, shall consider:

(a) Past loss experience and prospective loss experience within and without this state.

(b) Allocation of expenses.

(c) Risk and contingency margins, along with justification of such margins.

(d) Acquisition costs.

(3) If a health insurance rate filing changes the established rate relationships between insureds, the aggregate effect of such change shall be revenue neutral. The change to the new relationship shall be phased in over a period not to exceed 3 years as approved by the department. The rate filing may also include increases based on overall experience or annual medical trend, or both, which portions shall not be phased in over any period.

(4) In determining medical trend for application of subparagraph (1)(e)4., the department shall

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 401799)

Amendment 4—On page 8, line 18, of the bill

insert after the word "*changes,*": *changes in utilization,*

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 403663)

Amendment 5—On page 10, line 6,
remove from the bill: said line

and insert in lieu thereof: *eligibility for an individual or premium rates to be charged to an individual shall be considered*

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 305553)

Amendment 6—On page 10, lines 24-27,
remove from the bill: all of said lines

and insert in lieu thereof: allows adjustments for: claims experience, health status, or *credits based on the* duration *that the* ~~of~~ coverage *has been in force* as permitted under *subparagraph (6)(b)6.* ~~subparagraph (6)(b)5.~~; and administrative and acquisition expenses as permitted under subparagraph (6)(b)5. *A carrier may separate the experience*

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 811627)

Amendment 7—On page 11, line 28, of the bill

after the period insert: *Notwithstanding the provisions of s. 627.411(1)(e)4. and (3), the rate to be charged to a small employer group of less than 2 eligible employees insured as of July 1, 2001, may be up to 125 percent of the rate determined for groups of 2 through 50 eligible employees for the first annual renewal and 150 percent for susequent annual renewals.*

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 313839)

Amendment 8—On page 13, lines 1-29,
remove from the bill: all of said lines

and insert in lieu thereof:

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

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 120079)

Amendment 9—On page 15, line 3, of the bill

after "*or*" insert: *during the 6-month period begining with*

Rep. Berfield moved the adoption of the amendment, which failed of adoption.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 211363)

Amendment 10 (with title amendment)—On page 2, line 1,
remove from the bill: everything after the enacting clause,

and insert in lieu thereof:

Section 1. Paragraph (a) of subsection (6) of section 627.410, Florida Statutes, is amended, and paragraph (f) is added to subsection (7) of said section, to read:

627.410 Filing, approval of forms.—

(6)(a) An insurer shall not deliver or issue for delivery or renew in this state any health insurance policy form until it has filed with the department a copy of every applicable rating manual, rating schedule, change in rating manual, and change in rating schedule; if rating manuals and rating schedules are not applicable, the insurer must file with the department applicable premium rates and any change in applicable premium rates. *This paragraph does not apply to group health insurance policies insuring groups of 51 or more persons, except for Medicare supplement insurance, long-term care insurance, and any coverage under which the increase in claims costs over the lifetime of the contract due to advancing age or duration is prefunded in the premium.*

(7)

(f) Insurers with fewer than 1,000 nationwide policyholders or insured group members or subscribers covered under any form or pooled group of forms with health insurance coverage, as described in s. 627.6561(5)(a)2., excluding Medicare supplement insurance coverage under part VIII, at the time of a rate filing made pursuant to subparagraph (b)1., may file for an annual rate increase limited to medical trend as adopted by the department pursuant to s. 627.411(5). The filing is in lieu of the actuarial memorandum required for a rate filing prescribed by paragraph (6)(b). The filing must include forms adopted by the department and a certification by an officer of the company that the filing includes all similar forms.

Section 2. Section 627.411, Florida Statutes, is amended to read:

627.411 Grounds for disapproval.—

(1) The department shall disapprove any form filed under s. 627.410, or withdraw any previous approval thereof, only if the form:

(a) Is in any respect in violation of, or does not comply with, this code.

(b) Contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) Has any title, heading, or other indication of its provisions which is misleading.

(d) Is printed or otherwise reproduced in such manner as to render any material provision of the form substantially illegible.

(e) Is for health insurance, and*:*

1. Provides benefits *that* ~~which~~ are unreasonable in relation to the premium charged*;*~~,~~

2. Contains provisions *that* ~~which~~ are unfair or inequitable or contrary to the public policy of this state or *that* ~~which~~ encourage misrepresentation*;* ~~, or~~

3. Contains provisions that ~~which~~ apply rating practices *that* ~~which result in premium escalations that are not viable for the policyholder market or~~ result in unfair discrimination *pursuant to s. 626.9541(1)(g)2.;* ~~in sales practices.~~

4. Results in an actuarially justified rate increase that includes the insurer reducing the portion of the premium used to pay claims from the loss-ratio standard certified in the last actuarial certification filed by the insurer, which rate increase is in excess of the actuarially justified rate increase without such loss-ratio change, by an amount exceeding the greater of 50 percent of annual medical trend or 5 percent;

5. Results in an actuarially justified rate increase that includes the insurer changing established rate relationships between insureds or types of coverage, which rate increase is in excess of the actuarially justified rate increase without such relationship change, to any insured by an amount exceeding the greater of 50 percent of annual medical trend or 5 percent;

6. Results in an actuarially justified rate increase that is in excess of the greater of 150 percent of annual medical trend or 10 percent attributed to the insurer not complying with the annual filing requirements of s. 627.410(7) or department rule adopted under s. 641.31; or

7. Results in an actuarially justified rate increase that is in excess of the greater of 150 percent of annual medical trend or 10 percent on a form or block of pooled forms in which no form is currently available for sale. This provision does not apply to prestandardized Medicare supplement forms.

(f) Excludes coverage for human immunodeficiency virus infection or acquired immune deficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of such contract, for human immunodeficiency virus infection or acquired immune deficiency syndrome which are different than those which apply to any other sickness or medical condition.

(2) In determining whether the benefits are reasonable in relation to the premium charged, the department, in accordance with reasonable actuarial techniques, shall consider:

(a) Past loss experience and prospective loss experience within and without this state.

(b) Allocation of expenses.

(c) Risk and contingency margins, along with justification of such margins.

(d) Acquisition costs.

(3) If the renewal rate increase to existing insureds at the time of the rate filing would exceed the indicated levels based on the conditions in subparagraph (1)(e)4., subparagraph (1)(e)5., or subparagraph (1)(e)6., the insurer may file for approval of a higher new business rate schedule for new insureds and a rate increase of the amount that is actuarially justified by the aggregate data without such condition, plus the greater of 50 percent of annual medical trend or 5 percent for existing insureds. Future annual rate increases for the existing insureds at the time of the exercise of this provision is limited to the greater of 150 percent of the rate increase approved for new insureds, the greater of 150 percent of medical trend, or 10 percent, until the rate schedules converge. The application of this subsection is not a violation of s. 627.410(6)(d).

(4) If a rate filing changes the established rate relationship between insureds, the aggregate effect of such change shall be revenue neutral. The change to the new relationship shall be phased in under this subsection over a period not to exceed 3 years, as approved by the department.

(5) In determining medical trend for application of subparagraphs (1)(e)4., 5., 6., and 7., the department shall semiannually determine medical trend for each health care market, using reasonable actuarial techniques and standards. The trend must be adopted by the department by rule and determined as follows:

(a) Trend must be determined separately for medical expense; preferred provider organization; Medicare supplement; health maintenance organization; and other coverage for individual, small group, and large group, where applicable.

(b) The department shall survey insurers and health maintenance organizations currently issuing products and representing at least an 80-percent market share based on premiums earned in the state for the most recent calendar year for each of the categories specified in paragraph (a).

(c) Trend must be computed as the average annual medical trend approved for the carriers surveyed, giving appropriate weight to each carrier's statewide market share of earned premiums.

(d) The annual trend is the annual change in claims cost per unit of exposure. Trend includes the combined effect of medical provider price changes, new medical procedures, and technology and cost shifting.

Section 3. Subsection (9) is added to section 627.6515, Florida Statutes, to read:

627.6515 Out-of-state groups.—

(9) For purposes of this section, any insurer that issues any group health insurance policy or group certificate for health insurance to a resident of this state and requires individual underwriting to determine coverage eligibility or premium rates to be charged shall combine the experience of all association-based group policies or association-based group certificates which are substantially similar with respect to type and level of benefits and marketing method issued in this state after the policy form has been in force for a period of 5 years to calculate uniform percentage rate increases. For purposes of this section, policy forms that have different cost-sharing arrangements or different riders are considered to be different policy forms. Nothing in this subsection shall be construed to require uniform rates for policies or certificates after their fifth duration, it being the intent and purpose of this law to require uniform percentage rate increases for such policies or certificates. Furthermore, nothing in this subsection shall be construed to eliminate changes in rates by age for attained age policies or certificates. The provisions of this subsection shall apply to policies or certificates issued after July 1, 2001. For purposes of this subsection, a group health policy or group certificate for health insurance means any hospital or medical policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract. The term does not include accident-only, specified disease, individual hospital indemnity, credit, dental-only, vision-only, Medicare supplement, long-term care, or disability income insurance; similar supplemental plans provided under a separate policy, certificate, or contract of insurance, which cannot duplicate coverage under an underlying health plan and are specifically designed to fill gaps in the underlying health plan, coinsurance, or deductibles; coverage issued as a supplement to liability insurance; workers' compensation or similar insurance; or automobile medical-payment insurance.

Section 4. Paragraph (n) of subsection (3) and paragraph (b) of subsection (6) of section 627.6699, Florida Statutes, are amended to read:

627.6699 Employee Health Care Access Act.—

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

(n) "Modified community rating" means a method used to develop carrier premiums which spreads financial risk across a large population; allows the use of separate rating factors for age, gender, family composition, tobacco usage, and geographic area as determined under paragraph (5)(j); and allows adjustments for~~: claims experience, health status, or duration of coverage as permitted under subparagraph (6)(b)5.; and~~ administrative and acquisition expenses as permitted under subparagraph (6)(b)5. *A carrier may separate the experience of small employer groups with less than 2 eligible employees from the experience of small employer groups with 2 through 50 eligible employees.*

(6) RESTRICTIONS RELATING TO PREMIUM RATES.—

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

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

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

3. If the modified community rate is determined from two experience pools as authorized by paragraph (3)(n), the rate to be charged to small employer groups of less than 2 eligible employees may not exceed 150 percent of the rate determined for groups of 2 through 50 eligible employees; however, the carrier may charge excess losses of the less than 2 eligible employee experience pool to the experience pool of the 2 through 50 eligible employees so that all losses are allocated and the 150-percent rate limit on the less than 2 eligible employee experience pool is maintained.

4.~~3.~~ Small employer carriers may not modify the rate for a small employer for 12 months from the initial issue date or renewal date, unless the composition of the group changes or benefits are changed. However, a small employer carrier may modify the rate one time prior to 12 months after the initial issue date for a small employer who enrolls under a previously issued group policy that has a common anniversary date for all employers covered under the policy if:

a. The carrier discloses to the employer in a clear and conspicuous manner the date of the first renewal and the fact that the premium may increase on or after that date.

b. The insurer demonstrates to the department that efficiencies in administration are achieved and reflected in the rates charged to small employers covered under the policy.

5.~~4.~~ A carrier may issue a group health insurance policy to a small employer health alliance or other group association with rates that reflect a premium credit for expense savings attributable to administrative activities being performed by the alliance or group association if such expense savings are specifically documented in the insurer's rate filing and are approved by the department. Any such credit may not be based on different morbidity assumptions or on any other factor related to the health status or claims experience of any person covered under the policy. Nothing in this subparagraph exempts an alliance or group association from licensure for any activities that require licensure under the insurance code. A carrier issuing a group health insurance policy to a small employer health alliance or other group association shall allow any properly licensed and appointed agent of that carrier to market and sell the small employer health alliance or other group association policy. Such agent shall be paid the usual and customary commission paid to any agent selling the policy.

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

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

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

Section 5. Section 627.9408, Florida Statutes, is amended to read:

627.9408 Rules.—

(1) The department *may* ~~has authority to~~ adopt rules pursuant to ss. 120.536(1) and 120.54 to *administer* ~~implement the provisions of~~ this part.

(2) The department may adopt by rule the provisions of the Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners in the second quarter of the year 2000 which are not in conflict with the Florida Insurance Code.

Section 6. Paragraph (b) of subsection (3) of section 641.31, Florida Statutes, is amended, and paragraph (f) is added to said subsection, to read:

641.31 Health maintenance contracts.—

(3)

(b) Any change in the rate is subject to paragraph (d) and requires at least 30 days' advance written notice to the subscriber. In the case of

a group member, there may be a contractual agreement with the health maintenance organization to have the employer provide the required notice to the individual members of the group. *This paragraph does not apply to a group contract covering 51 or more persons unless the rate is for any coverage under which the increase in claim costs over the lifetime of the contract due to advancing age or duration is prefunded in the premium.*

(f) A health maintenance organization with fewer than 1,000 covered subscribers under all individual or group contracts, at the time of a rate filing, may file for an annual rate increase limited to annual medical trend, as adopted by the department. The filing is in lieu of the actuarial memorandum otherwise required for the rate filing. The filing must include forms adopted by the department and a certification by an officer of the company that the filing includes all similar forms.

Section 7. Paragraphs (a) and (b) of subsection (1) of section 641.3155, Florida Statutes, are amended to read:

641.3155 Payment of claims.—

(1)(a) As used in this section, the term "clean claim" for a noninstitutional provider means a claim submitted on a HCFA 1500 form which has no defect or impropriety, including lack of required substantiating documentation for noncontracted providers and suppliers, or particular circumstances requiring special treatment which prevent timely payment from being made on the claim. A claim may not be considered not clean solely because a health maintenance organization refers the claim to a medical specialist within the health maintenance organization for examination. If additional substantiating documentation, such as the medical record or encounter data, is required from a source outside the health maintenance organization, the claim is considered not clean. *This paragraph does not apply to claims which include potential coordination of benefits for third-party liability or subrogation, as evidenced by the information provided on the claim form related to coordination of benefits.* This definition of "clean claim" is repealed on the effective date of rules adopted by the department which define the term "clean claim."

(b) Absent a written definition that is agreed upon through contract, the term "clean claim" for an institutional claim is a properly and accurately completed paper or electronic billing instrument that consists of the UB-92 data set or its successor with entries stated as mandatory by the National Uniform Billing Committee. *This paragraph does not apply to claims which include potential coordination of benefits for third-party liability or subrogation, as evidenced by the information provided on the claim form related to coordination of benefits.*

Section 8. *Health flex plans.—*

(1) INTENT.—The Legislature finds that a significant portion of the residents of this state are not able to obtain affordable health insurance coverage. Therefore, it is the intent of the Legislature to expand the availability of health care options for lower income uninsured state residents by encouraging health insurers, health maintenance organizations, health care provider sponsored organizations, local governments, health care districts, or other public or private community-based organizations to develop alternative approaches to traditional health insurance which emphasize coverage for basic and preventive health care services. To the maximum extent possible, such options should be coordinated with existing governmental or community-based health services programs in a manner that is consistent with the objectives and requirements of such programs.

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

(a) "Agency" means the Agency for Health Care Administration.

(b) "Approved plan" means a health flex plan approved under subsection (3) which guarantees payment by the health plan entity for specified health care services provided to the enrollee.

(c) "Enrollee" means an individual who has been determined eligible for and is receiving health benefits under a health flex plan approved under this section.

(d) "Health care coverage" means payment for health care services covered as benefits under an approved plan or that otherwise provides, either directly or through arrangements with other persons, covered health care services on a prepaid per-capita basis or on a prepaid aggregate fixed-sum basis.

(e) "Health plan entity" means a health insurer, health maintenance organization, health care provider sponsored organization, local government, health care districts, or other public or private community-based organization that develops and implements an approved plan and is responsible for financing and paying all claims by enrollees of the plan.

(3) PILOT PROGRAM.—The agency and the Department of Insurance shall jointly approve or disapprove health flex plans which provide health care coverage for eligible participants residing in the three areas of the state having the highest number of uninsured residents as determined by the agency. A plan may limit or exclude benefits otherwise required by law for insurers offering coverage in this state, cap the total amount of claims paid in 1 year per enrollee, or limit the number of enrollees covered. The agency and the Department of Insurance shall not approve or shall withdraw approval of a plan which:

(a) Contains any ambiguous, inconsistent, or misleading provisions, or exceptions or conditions that deceptively affect or limit the benefits purported to be assumed in the general coverage provided by the plan;

(b) Provides benefits that are unreasonable in relation to the premium charged, contains provisions that are unfair or inequitable or contrary to the public policy of this state or that encourage misrepresentation, or result in unfair discrimination in sales practices; or

(c) Cannot demonstrate that the plan is financially sound and the applicant has the ability to underwrite or finance the benefits provided.

(4) LICENSE NOT REQUIRED.—A health flex plan approved under this section shall not be subject to the licensing requirements of the Florida Insurance Code or chapter 641, Florida Statutes, relating to health maintenance organizations, unless expressly made applicable. However, for the purposes of prohibiting unfair trade practices, health flex plans shall be considered insurance subject to the applicable provisions of part IX of chapter 626, Florida Statutes, except as otherwise provided in this section.

(5) ELIGIBILITY.—Eligibility to enroll in an approved health flex plan is limited to residents of this state who:

(a) Are 64 years of age or younger;

(b) Have a family income equal to or less than 200 percent of the federal poverty level;

(c) Are not covered by a private insurance policy and are not eligible for coverage through a public health insurance program such as Medicare or Medicaid, or other public health care program, including, but not limited to, Kidcare, and have not been covered at any time during the past 6 months; and

(d) Have applied for health care benefits through an approved health flex plan and agree to make any payments required for participation, including, but not limited to, periodic payments and payments due at the time health care services are provided.

(6) RECORDS.—Every health flex plan provider shall maintain reasonable records of its loss, expense, and claims experience and shall make such records reasonably available to enable the agency and the Department of Insurance to monitor and determine the financial viability of the plan, as necessary.

(7) NOTICE.—The denial of coverage by the health plan entity shall be accompanied by the specific reasons for denial, nonrenewal, or cancellation. Notice of nonrenewal or cancellation shall be provided at least 45 days in advance of such nonrenewal or cancellation except that 10 days' written notice shall be given for cancellation due to nonpayment of premiums. If the health plan entity fails to give the required notice, the plan shall remain in effect until notice is appropriately given.

(8) NONENTITLEMENT.—Coverage under an approved health flex plan is not an entitlement and no cause of action shall arise against the state, local governmental entity, or other political subdivision of this state or the agency for failure to make coverage available to eligible persons under this section.

(9) CIVIL ACTIONS.—In addition to an administrative action initiated under subsection (4), the agency may seek any remedy provided by law, including, but not limited to, the remedies provided in s. 812.035, Florida Statutes, if the agency finds that a health plan entity has engaged in any act resulting in injury to an enrollee covered by a plan approved under this section.

Section 9. *The Legislature finds that the affordability and availability of health insurance is one of the most important and complex issues in this state and that coverage issued to a state resident under group health insurance policies issued outside the state is an important factor in meeting the needs of the citizens of this state. The Legislature also finds that it is important to ensure that those policies are adequately regulated in order to maintain the quality of the coverage offered to citizens of this state. Therefore, the Workgroup on Out of State Group Policies is hereby created to study the regulatory environment in which these policies are now offered and recommend any statutory changes that may be necessary to maintain the quality of the insurance offered in this state. There shall be four members from the House of Representatives appointed by the Speaker of the House of Representatives and four members from the Senate appointed by the President of the Senate. The group shall begin its meetings by July 1, 2001, and complete its meetings by November 15, 2001. Recommendations for suggested legislation shall be delivered to the Speaker of the House of Representatives and the President of the Senate by December 15, 2001. At its first meeting, the group shall elect a chair from among its members.*

Section 10. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2, through page 2, line 25,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: An act relating to health insurance; amending s. 627.410, F.S.; exempting group health insurance policies insuring groups of a certain size from rate filing requirements; providing alternative rate filing requirements for insurers with less than a specified number of nationwide policyholders or members; amending s. 627.411, F.S.; revising the grounds for the disapproval of insurance policy forms; providing that a health insurance policy form may be disapproved if it results in certain rate increases; specifying allowable new business rates and renewal rates if rate increases exceed certain levels; authorizing the Department of Insurance to determine medical trend for purposes of approving rate filings; amending s. 627.6515, F.S.; providing additional experience requirements and limitations for out-of-state groups; providing construction; amending s. 627.6699, F.S.; revising a definition; allowing carriers to separate the experience of small employer groups with fewer than two employees; revising the rating factors that may be used by small employer carriers; amending s. 627.9408, F.S.; authorizing the department to adopt by rule certain provisions of the Long-Term Care Insurance Model Regulation, as adopted by the National Association of Insurance Commissioners; amending s. 641.31, F.S.; exempting contracts of group health maintenance organizations covering a specified number of persons from the requirements of filing with the department; providing alternative rate filing requirements for organizations with less than a specified number of subscribers; amending s. 641.3155, F.S.; specifying nonapplication of certain provisions to certain claims; providing for certain health flex plans; providing legislative intent; providing definitions; providing for a pilot program for health flex plans for certain uninsured persons; providing criteria; exempting approved health flex plans from certain licensing requirements; providing criteria for eligibility to enroll in a health flex plan; requiring health flex plan providers to maintain certain records; providing requirements for denial, nonrenewal, or cancellation of coverage; specifying that coverage under an approved health flex plan is not an entitlement; providing for civil actions against health plan entities by the Agency for Health Care Administration under certain circumstances; providing legislative findings; creating the Workgroup on Out of State Group Policies; providing for membership; providing purposes; requiring recommendations for proposed legislation; providing an effective date.

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

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

HB 579—A bill to be entitled An act relating to the Uniform Commercial Code; revising ch. 679, F.S., relating to secured transactions; creating ss. 679.1011, 679.1021, 679.1031, 679.1041, 679.1051, 679.1061, 679.1071, 679.1081, 679.1091, 679.1101, F.S.; providing a short title, definitions, and general concepts; creating ss. 679.2011, 679.2021, 679.2031, 679.2041, 679.2051, 679.2061, 679.2071, 679.2081, 679.209, 679.210, F.S.; providing for the effectiveness and attachment of security agreements; prescribing rights and duties of secured parties; creating ss. 679.3011, 679.3021, 679.3031, 679.3041, 679.3051, 679.3061, 679.3071, 679.3081, 679.091, 679.3101, 679.3111, 679.3121, 679.3131, 679.3141, 679.3151, 679.3161, 679.3171, 679.3181, 679.319, 679.320, 679.321, 679.322, 679.323, 679.324, 679.325, 679.326, 679.327, 679.328, 679.329, 679.330, 679.331, 679.332, 679.333, 679.334, 679.335, 679.336, 679.337, 679.338, 679.340, 679.341, 679.342, F.S.; providing for perfection and priority of security interests; creating ss. 679.40111, 679.4021, 679.4031, 679.4041, 679.4051, 679.4061, 679.4071, 679.4081, 679.409, F.S.; prescribing rights of third parties; creating ss. 679.5011, 679.5021, 679.5031, 679.5041, 679.5051, 679.5061, 679.5071, 679.508, 679.509, 679.510, 679.511, 679.512, 679.513, 679.524, 679.515, 679.516, 679.517, 679.518, 679.519, 679.520, 679.521, 679.522, 679.523, 679.524, 679.525, 679.526, 679.527, F.S.; prescribing filing procedures for perfection of a security interest; providing forms; providing duties and operation of filing office; creating ss. 679.601, 679.602, 679.603, 679.604, 679.605, 679.606, 679.607, 679.608, 679.609, 679.610, 679.611, 679.612, 679.613, 679.614, 679.615, 679.616, 679.617, 679.618, 679.619, 679.620, 679.621, 679.622, 679.623, 679.624, 679.625, 679.626, 679.627, F.S.; prescribing procedures for default and enforcement of security interests; providing for forms; creating ss. 679.701, 679.702, 679.703, 679.704, 679.705, 679.706, 679.707, 679.708, 679.709, F.S.; providing transitional effective dates and savings clause for perfected and unperfected security interests, specified actions, and financing statements; specifying priority of conflicting claims; amending s. 671.105, F.S.; specifying the precedence of law governing the perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens; amending s. 671.201, F.S.; revising definitions used in the Uniform Commercial Code; amending s. 672.103, F.S.; conforming a cross-reference; amending s. 672.210, F.S.; providing that the creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially affects the buyer unless the enforcement actually results in a delegation of material performance of the seller; amending s. 672.326, F.S.; eliminating provisions relating to consignment sales; amending s. 672.502, F.S.; modifying buyers' rights to goods on a seller's repudiation, failure to deliver, or insolvency; amending s. 672.716, F.S.; providing that, for goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property; amending s. 674.2101, F.S.; conforming a cross-reference; creating s. 675.1181, F.S.; specifying conditions under which an issuer or nominated person has a security interest in a document presented under a letter of credit; amending ss. 677.503, 678.1031, F.S.; conforming cross-references; amending s. 678.1061, F.S.; specifying a condition under which a purchaser has control of a security entitlement; amending s. 678.1101, F.S.; modifying rules that determine a securities intermediary's jurisdiction; amending s. 678.3011, F.S.; providing for delivery of a certificated security to a purchaser; amending s. 678.3021, F.S.; eliminating a requirement that a purchaser of a certificated or uncertificated security receive delivery prior to acquiring all rights in the security; amending s. 678.5101, F.S.; prescribing rights of a purchaser of a security entitlement from an entitlement holder; amending ss. 680.1031, 680.303, 680.307, 680.309, F.S.; conforming cross-references; repealing ss. 679.101, 679.102, 679.103, 679.104,

679.105, 679.106, 679.107, 679.108, 679.109, 679.110, 679.112, 679.113, 679.114, 679.115, 679.116, F.S., relating to the short title, applicability, and definitions of ch. 679, F.S.; repealing ss. 679.201, 679.202, 679.203, 679.204, 679.205, 679.206, 679.207, 679.208, F.S., relating to the validity of security agreements and the rights of parties to such agreements; repealing ss. 679.301, 679.302, 679,303, 679.304, 679.305, 679.306, 679.307, 679.308, 679.309, 679.310, 679.311, 679.312, 679.313, 679.314, 679.315, 679.316, 679.317, 679.318, F.S., relating to rights of third parties, perfected and unperfected security interests, and rules of priority; repealing ss. 679.401, 679.4011, 679.402, 679.403, 679.404, 679.405, 679.406, 679.407, 679.408, F.S., relating to filing of security interests; repealing ss. 679.501, 679.502, 679.503, 679.504, 679.505, 679.506, 679.507, F.S., relating to rights of the parties upon default under a security agreement; providing an effective date.

—was read the second time by title.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 453215)

Amendment 1 (with title amendment)—On page 4, line 30 remove from the bill: everything after the enacting clause

and insert in lieu thereof:

Section 1. Part I of chapter 679, Florida Statutes, consisting of sections 679.101, 679.102, 679.103, 679.104, 679.105, 679.106, 679.107, 679.108, 679.109, 679.110, 679.112, 679.113, 679.114, 679.115, and 679.116, Florida Statutes, is repealed and a new part I of that chapter, consisting of sections 679.1011, 679.1021, 679.1031, 679.1041, 679.1051, 679.1061, 679.1071, 679.1081, 679.1091, and 679.1101, Florida Statutes, is created to read:

PART I
GENERAL PROVISIONS

679.1011 Short title.—This chapter may be cited as Uniform Commercial Code-Secured Transactions.

679.1021 Definitions and index of definitions.—

(1) In this chapter, the term:

(a) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(b) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance, for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of; for services rendered or to be rendered; for a policy of insurance issued or to be issued; for a secondary obligation incurred or to be incurred; for energy provided or to be provided; for the use or hire of a vessel under a charter or other contract; arising out of the use of a credit or charge card or information contained on or for use with the card; or as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include rights to payment evidenced by chattel paper or an instrument; commercial tort claims; deposit accounts; investment property; letter-of-credit rights or letters of credit; or rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(c) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(d) "Accounting," except as used in the term "accounting for," means a record:

1. Authenticated by a secured party;

2. Indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

3. Identifying the components of the obligations in reasonable detail.

(e) "Agricultural lien" means an interest, other than a security interest, in farm products:

1. Which secures payment or performance of an obligation for:

a. Goods or services furnished in connection with a debtor's farming operation; or

b. Rent on real property leased by a debtor in connection with the debtor's farming operation;

2. Which is created by statute in favor of a person who:

a. In the ordinary course of the person's business furnished goods or services to a debtor in connection with a debtor's farming operation; or

b. Leased real property to a debtor in connection with the debtor's farming operation; and

3. Whose effectiveness does not depend on the person's possession of the personal property.

(f) "As-extracted collateral" means:

1. Oil, gas, or other minerals that are subject to a security interest that:

a. Is created by a debtor having an interest in the minerals before extraction; and

b. Attaches to the minerals as extracted; or

2. Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(g) "Authenticate" means:

1. To sign; or

2. To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

(h) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(i) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(j) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(k) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include charters or other contracts involving the use or hire of a vessel or records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(l) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

1. Proceeds to which a security interest attaches;

2. Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

3. Goods that are the subject of a consignment.

(m) "Commercial tort claim" means a claim arising in tort with respect to which:

1. The claimant is an organization; or

2. The claimant is an individual and the claim:

a. Arose in the course of the claimant's business or profession; and

b. Does not include damages arising out of personal injury to or the death of an individual.

(n) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(o) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

1. Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

2. Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(p) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(q) "Commodity intermediary" means a person who:

1. Is registered as a futures commission merchant under federal commodities law; or

2. In the ordinary course of the person's business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(r) "Communicate" means:

1. To send a written or other tangible record;

2. To transmit a record by any means agreed upon by the persons sending and receiving the record; or

3. In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(s) "Consignee" means a merchant to which goods are delivered in a consignment.

(t) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

1. The merchant:

a. Deals in goods of that kind under a name other than the name of the person making delivery;

b. Is not an auctioneer; and

c. Is not generally known by its creditors to be substantially engaged in selling the goods of others;

2. With respect to each delivery, the aggregate value of the goods is $1,000 or more at the time of delivery;

3. The goods are not consumer goods immediately before delivery; and

4. The transaction does not create a security interest that secures an obligation.

(u) "Consignor" means a person who delivers goods to a consignee in a consignment.

(v) "Consumer debtor" means a debtor in a consumer transaction.

(w) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(x) "Consumer-goods transaction" means a consumer transaction in which:

1. An individual incurs an obligation primarily for personal, family, or household purposes; and

2. A security interest in consumer goods secures the obligation.

(y) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(z) "Consumer transaction" means a transaction in which an individual incurs an obligation primarily for personal, family, or household purposes; a security interest secures the obligation; and the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(aa) "Continuation statement" means an amendment of a financing statement which:

1. Identifies, by its file number, the initial financing statement to which it relates; and

2. Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(bb) "Debtor" means:

1. A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

2. A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

3. A consignee.

(cc) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(dd) "Document" means a document of title or a receipt of the type described in s. 677.201(2).

(ee) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(ff) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(gg) "Equipment" means goods other than inventory, farm products, or consumer goods.

(hh) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

1. Crops grown, growing, or to be grown, including:

a. Crops produced on trees, vines, and bushes; and

b. Aquatic goods produced in aquacultural operations;

2. Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

3. Supplies used or produced in a farming operation; or

4. Products of crops or livestock in their unmanufactured states.

(ii) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(jj) "File number" means the number assigned to an initial financing statement pursuant to s. 679.519(1).

(kk) "Filing office" means an office designated in s. 679.5011 as the place to file a financing statement.

(ll) "Filing-office rule" means a rule adopted pursuant to s. 679.526.

(mm) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(nn) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying s. 679.502(1) and (2). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(oo) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(pp) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(qq) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(rr) "Goods" means all things that are movable when a security interest attaches. The term includes fixtures; standing timber that is to be cut and removed under a conveyance or contract for sale; the unborn young of animals; crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes; and manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if the program is associated with the goods in such a manner that it customarily is considered part of the goods, or by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(ss) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(tt) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(uu) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in the ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include investment property, letters of credit, or writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(vv) "Inventory" means goods, other than farm products, which:

1. Are leased by a person as lessor;

2. Are held by a person for sale or lease or to be furnished under a contract of service;

3. Are furnished by a person under a contract of service; or

4. Consist of raw materials, work in process, or materials used or consumed in a business.

(ww) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(xx) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(yy) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(zz) "Lien creditor" means:

1. A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

2. An assignee for benefit of creditors from the time of assignment;

3. A trustee in bankruptcy from the date of the filing of the petition; or

4. A receiver in equity from the time of appointment.

(aaa) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(bbb) "Manufactured-home transaction" means a secured transaction:

1. That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

2. In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(ccc) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation, which interest was created or derived from an instrument described in s. 697.01.

(ddd) "New debtor" means a person who becomes bound as debtor under s. 679.2031(4) by a security agreement previously entered into by another person.

(eee) "New value" means money; money's worth in property, services, or new credit; or release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(fff) "Noncash proceeds" means proceeds other than cash proceeds.

(ggg) "Obligor" means a person who, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, owes payment or other performance of the obligation, has provided property other than the collateral to secure payment or other performance of the obligation, or is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(hhh) "Original debtor," except as used in s. 679.3101(3), means a person who, as debtor, entered into a security agreement to which a new debtor has become bound under s. 679.2031(4).

(iii) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(jjj) "Person related to," with respect to an individual, means:

1. The spouse of the individual;

2. A brother, brother-in-law, sister, or sister-in-law of the individual;

3. An ancestor or lineal descendant of the individual or the individual's spouse; or

4. Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(kkk) "Person related to," with respect to an organization, means:

1. A person directly or indirectly controlling, controlled by, or under common control with the organization;

2. An officer or director of, or a person performing similar functions with respect to, the organization;

3. An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph 1.;

4. The spouse of an individual described in subparagraph 1., subparagraph 2., or subparagraph 3.; or

5. An individual who is related by blood or marriage to an individual described in subparagraph 1., subparagraph 2., subparagraph 3., or subparagraph 4. and shares the same home with the individual.

(lll) "Proceeds," except as used in s. 679.609(2), means the following property:

1. Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

2. Whatever is collected on, or distributed on account of, collateral;

3. Rights arising out of collateral;

4. To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

5. To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(mmm) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(nnn) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to ss. 679.620, 679.621, and 679.622.

(ooo) "Public-finance transaction" means a secured transaction in connection with which:

1. Debt securities are issued;

2. All or a portion of the securities issued have an initial stated maturity of at least 20 years; and

3. The debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(ppp) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(qqq) "Record," except as used in the terms "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(rrr) "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(sss) "Secondary obligor" means an obligor to the extent that:

1. The obligor's obligation is secondary; or

2. The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(ttt) "Secured party" means:

1. A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

2. A person who holds an agricultural lien;

3. A consignor;

4. A person to whom accounts, chattel paper, payment intangibles, or promissory notes have been sold;

5. A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

6. A person who holds a security interest arising under s. 672.401, s. 672.505, s. 672.711(3), s. 680.508(5), s. 674.2101, or s. 675.118.

(uuu) "Security agreement" means an agreement that creates or provides for a security interest.

(vvv) "Send," in connection with a record or notification, means:

1. To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

2. To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph 1.

(www) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(xxx) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(yyy) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(zzz) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(aaaa) "Termination statement" means an amendment of a financing statement which:

1. Identifies, by its file number, or if a fixture filing, by the official records book and page number, the initial financing statement to which it relates; and

2. Indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(bbbb) "Transmitting utility" means a person primarily engaged in the business of:

1. Operating a railroad, subway, street railway, or trolley bus;

2. Transmitting communications electrically, electromagnetically, or by light;

3. Transmitting goods by pipeline or sewer; or

4. Transmitting or producing and transmitting electricity, steam, gas, or water.

(2) The following definitions in other chapters apply to this chapter:

"Applicant"	*s. 675.103.*
"Beneficiary"	*s. 675.103.*
"Broker"	*s. 678.1021.*
"Certificated security"	*s. 678.1021.*
"Check"	*s. 673.1041.*
"Clearing corporation"	*s. 678.1021.*
"Contract for sale"	*s. 672.106.*
"Customer"	*s. 674.104.*
"Entitlement holder"	*s. 678.1021.*
"Financial asset"	*s. 678.1021.*
"Holder in due course"	*s. 673.3021.*
"Issuer" (with respect to a letter of credit or letter-of-credit right)	*s. 675.103.*
"Issuer" (with respect to a security)	*s. 678.2011.*
"Lease"	*s. 680.1031.*
"Lease agreement"	*s. 680.1031.*
"Lease contract"	*s. 680.1031.*
"Leasehold interest"	*s. 680.1031.*
"Lessee"	*s. 680.1031.*
"Lessee in ordinary course of business"	*s. 680.1031.*
"Lessor"	*s. 680.1031.*
"Lessor's residual interest"	*s. 680.1031.*
"Letter of credit"	*s. 675.103.*
"Merchant"	*s. 672.104.*
"Negotiable instrument"	*s. 673.1041.*
"Nominated person"	*s. 675.103.*
"Note"	*s. 673.1041.*
"Proceeds of a letter of credit"	*s. 675.114.*
"Prove"	*s. 673.1031.*
"Sale"	*s. 672.106.*
"Securities account"	*s. 678.5011.*
"Securities intermediary"	*s. 678.1021.*
"Security"	*s. 678.1021.*
"Security certificate"	*s. 678.1021.*
"Security entitlement"	*s. 678.1021.*
"Uncertificated security"	*s. 678.1021.*

(3) Chapter 671 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

679.1031 Purchase-money security interest; application of payments; burden of establishing.—

(1) In this section, the term:

(a) "Purchase-money collateral" means goods or software that secures a purchase-money obligation incurred with respect to that collateral.

(b) "Purchase-money obligation" means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in or the use of the collateral if the value is in fact so used.

(2) A security interest in goods is a purchase-money security interest:

(a) To the extent that the goods are purchase-money collateral with respect to that security interest;

(b) If the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and

(c) Also to the extent that the security interest secures a purchase-money obligation incurred with respect to software in which the secured party holds or held a purchase-money security interest.

(3) A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

(a) The debtor acquired interest in the software in an integrated transaction in which the debtor acquired an interest in the goods; and

(b) The debtor acquired interest in the software for the principal purpose of using the software in the goods.

(4) The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

(5) If the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(a) In accordance with any reasonable method of application to which the parties agree;

(b) In the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(c) In the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

1. To obligations that are not secured; and

2. If more than one obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

(6) A purchase-money security interest does not lose its status as such, even if:

(a) The purchase-money collateral also secures an obligation that is not a purchase-money obligation;

(b) Collateral that is not purchase-money collateral also secures the purchase-money obligation; or

(c) The purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

(7) A secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

679.1041 Control of deposit account.—

(1) A secured party has control of a deposit account if:

(a) The secured party is the bank with which the deposit account is maintained;

(b) The debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; or

(c) The secured party becomes the bank's customer with respect to the deposit account.

(2) A secured party that has satisfied subsection (1) has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

679.1051 Control of electronic chattel paper.—A secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in subsections (4), (5), and (6), unalterable;

(2) The authoritative copy identifies the secured party as the assignee of the record or records;

(3) The authoritative copy is communicated to and maintained by the secured party or its designated custodian;

(4) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the participation of the secured party;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

679.1061 Control of investment property.—

(1) A person has control of a certificated security, uncertificated security, or security entitlement as provided in s. 678.1061.

(2) A secured party has control of a commodity contract if:

(a) The secured party is the commodity intermediary with which the commodity contract is carried; or

(b) The commodity customer, secured party, and commodity intermediary have agreed that the commodity intermediary will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.

(3) A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

679.1071 Control of letter-of-credit right.—A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under s. 675.114(3) or otherwise applicable law or practice.

679.1081 Sufficiency of description.—

(1) Except as otherwise provided herein and in subsections (3), (4), and (5), a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described. A description of real estate in a record filed to perfect a security interest in crops growing or to be grown or goods which are or are to become fixtures shall be sufficient only if the filing or recording of the same constitutes constructive notice under the laws of this state, other than this chapter, which are applicable to the filing or recording of a record of a mortgage, and a mailing or street address alone shall not be sufficient.

(2) Except as otherwise provided in subsection (4), a description of collateral reasonably identifies the collateral if it identifies the collateral by:

(a) Specific listing;

(b) Category;

(c) Except as otherwise provided in subsection (5), a type of collateral defined in the Uniform Commercial Code;

(d) Quantity;

(e) Computational or allocational formula or procedure; or

(f) Except as otherwise provided in subsection (3), any other method, if the identity of the collateral is objectively determinable.

(3) A description of collateral as "all the debtor's assets" or "all the debtor's personal property" or using words of similar import does not reasonably identify the collateral for purposes of the security agreement.

(4) Except as otherwise provided in subsection (5), a description of a security entitlement, securities account, or commodity account is sufficient if it describes:

(a) The collateral by those terms or as investment property; or

(b) The underlying financial asset or commodity contract.

(5) A description only by type of collateral defined in the Uniform Commercial Code is an insufficient description of:

(a) A commercial tort claim; or

(b) In a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

679.1091 Scope.—

(1) Except as otherwise provided in subsections (3) and (4), this chapter applies to:

(a) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(b) An agricultural lien;

(c) A sale of accounts, chattel paper, payment intangibles, or promissory notes;

(d) A consignment;

(e) A security interest arising under s. 672.401, s. 672.502, s. 672.711, or s. 680.508(5), as provided in s. 679.1101; and

(f) A security interest arising under s. 674.2101 or s. 675.118.

(2) The application of this chapter to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this chapter does not apply.

(3) This chapter does not apply to the extent that:

(a) A statute, regulation, or treaty of the United States preempts this chapter;

(b) Another statute of this state expressly governs the creation, perfection, priority, or enforcement of a security interest created by this state or a governmental unit of this state;

(c) A statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or

(d) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under s. 675.114.

(4) This chapter does not apply to:

(a) A landlord's lien, other than an agricultural lien;

(b) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but s. 679.333 applies with respect to priority of the lien;

(c) An assignment of a claim for wages, salary, or other compensation of an employee;

(d) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

(e) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;

(f) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(g) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(h) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but ss. 679.3151 and 679.322 apply with respect to proceeds and priorities in proceeds;

(i) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(j) A right of recoupment or set-off, but:

1. Section 679.340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

2. Section 679.4041 applies with respect to defenses or claims of an account debtor;

(k) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

1. Liens on real property in ss. 679.2031 and 679.3081;

2. Fixtures in s. 679.334;

3. Fixture filings in ss. 679.5011, 679.5021, 679.512, 679.516, and 679.519; and

4. Security agreements covering personal and real property in s. 679.604;

(l) An assignment of a claim arising in tort, other than a commercial tort claim, but ss. 679.3151 and 679.322 apply with respect to proceeds and priorities in proceeds;

(m) An assignment of a deposit account, other than a non-negotiable certificate of deposit, in a consumer transaction, but ss. 679.3151 and 679.322 apply with respect to proceeds and priorities in proceeds; or

(n) Any transfer by a governmental unit.

679.1101 Security interests arising under chapter 672 or chapter 680.—A security interest arising under s. 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is subject to this chapter. However, until the debtor obtains possession of the goods:

(1) The security interest is enforceable, even if s. 679.2031(2)(c) has not been satisfied;

(2) Filing is not required to perfect the security interest;

(3) The rights of the secured party after default by the debtor are governed by chapter 672 or chapter 680; and

(4) The security interest has priority over a conflicting security interest created by the debtor.

Section 2. Part II of chapter 679, Florida Statutes, consisting of sections 679.201, 679.202, 679.203, 679.204, 679.205, 679.206, 679.207, and 679.208, Florida Statutes, is repealed and a new part II of that chapter, consisting of sections 679.2011, 679.2021, 679.2031, 670.2041, 679.2051, 679.2061, 679.2071, 679.2081, 679.209, and 679.210, Florida Statutes, is created to read:

PART II
EFFECTIVENESS OF SECURITY AGREEMENT;
ATTACHMENT OF SECURITY INTEREST;
RIGHTS OF PARTIES TO SECURITY AGREEMENT

679.2011 General effectiveness of security agreement.—

(1) Except as otherwise provided in the Uniform Commercial Code, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(2) Nothing in this chapter validates any charge or practice illegal under any statute or regulation thereunder governing usury, small loans, retail installment sales, or the like, or extends the application of any such statute or regulation to any transaction not otherwise subject thereto. A transaction, although subject to this chapter, is also subject to chapters 516 and 520, and in the case of conflict between the provisions of this chapter and any such statute, the provisions of such statute shall control. Failure to comply with any applicable statute has only the effect which is specified therein.

679.2021 Title to collateral immaterial.—Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this chapter with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

679.2031 Attachment and enforceability of security interest; proceeds; supporting obligations; formal requisites.—

(1) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(2) Except as otherwise provided in subsections (3) through (9), a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(a) Value has been given;

(b) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(c) One of the following conditions is met:

1. The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

2. The collateral is not a certificated security and is in the possession of the secured party under s. 679.3131 pursuant to the debtor's security agreement;

3. The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under S. 678.3011 pursuant to the debtor's security agreement; or

4. The collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, and the secured party has control under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071 pursuant to the debtor's security agreement.

(3) Subsection (2) is subject to s. 674.2101 on the security interest of a collecting bank, s. 675.118 on the security interest of a letter-of-credit issuer or nominated person, s. 679.1101 on a security interest arising under chapter 672 or chapter 680, and s. 679.2061 on security interests in investment property.

(4) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this chapter or by contract:

(a) The security agreement becomes effective to create a security interest in the person's property; or

(b) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(5) If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(a) The agreement satisfies subsection (2)(c) with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(b) Another agreement is not necessary to make a security interest in the property enforceable.

(6) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by s. 679.3151 and is also attachment of a security interest in a supporting obligation for the collateral.

(7) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(8) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(9) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

679.2041 After-acquired property; future advances.—

(1) Except as otherwise provided in subsection (2), a security agreement may create or provide for a security interest in after-acquired collateral.

(2) A security interest does not attach under a term constituting an after-acquired property clause to:

(a) Consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within 10 days after the secured party gives value; or

(b) A commercial tort claim.

(3) A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

679.2051 Use or disposition of collateral permissible.—

(1) A security interest is not invalid or fraudulent against creditors solely because:

(a) The debtor has the right or ability to:

1. Use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods;

2. Collect, compromise, enforce, or otherwise deal with collateral;

3. Accept the return of collateral or make repossessions; or

4. Use, commingle, or dispose of proceeds; or

(b) The secured party fails to require the debtor to account for proceeds or replace collateral.

(2) This section does not relax the requirements of possession if attachment, perfection, or enforcement of a security interest depends upon possession of the collateral by the secured party.

679.2061 Security interest arising in purchase or delivery of financial asset.—

(1) A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

(a) The person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase; and

(b) The securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.

(2) The security interest described in subsection (1) secures the person's obligation to pay for the financial asset.

(3) A security interest in favor of a person who delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

(a) The security or other financial asset:

1. In the ordinary course of business is transferred by delivery with any necessary indorsement or assignment; and

2. Is delivered under an agreement between persons in the business of dealing with such securities or financial assets; and

(b) The agreement calls for delivery against payment.

(4) The security interest described in subsection (3) secures the obligation to make payment for the delivery.

679.2071 Rights and duties of secured party having possession or control of collateral.—

(1) Except as otherwise provided in subsection (4), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Except as otherwise provided in subsection (4), if a secured party has possession of collateral:

(a) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(b) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(c) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(d) The secured party may use or operate the collateral:

1. For the purpose of preserving the collateral or its value;

2. As permitted by an order of a court having competent jurisdiction; or

3. Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(3) Except as otherwise provided in subsection (4), a secured party having possession of collateral or control of collateral under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071:

(a) May hold as additional security any proceeds, except money or funds, received from the collateral;

(b) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(c) May create a security interest in the collateral.

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(a) Subsection (1) does not apply unless the secured party is entitled under an agreement:

1. To charge back uncollected collateral; or

2. Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(b) Subsections (2) and (3) do not apply.

679.2081 Additional duties of secured party having control of collateral.—

(1) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within 10 days after receiving an authenticated demand by the debtor:

(a) A secured party having control of a deposit account under s. 679.1041(1)(b) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(b) A secured party having control of a deposit account under s. 679.1041(1)(c) shall:

1. Pay the debtor the balance on deposit in the deposit account; or

2. Transfer the balance on deposit into a deposit account in the debtor's name;

(c) A secured party, other than a buyer, having control of electronic chattel paper under s. 679.1051 shall:

1. Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

2. If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

3. Take appropriate action to enable the debtor or the debtor's designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;

(d) A secured party having control of investment property under s. 678.1061(4)(b) or s. 679.1061(2) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and

(e) A secured party having control of a letter-of-credit right under s. 679.1071 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

679.209 Duties of secured party if account debtor has been notified of assignment.—

(1) Except as otherwise provided in subsection (3), this section applies if:

(a) There is no outstanding secured obligation; and

(b) The secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within 10 days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under s. 679.4061(1) an authenticated record that releases the account debtor from any further obligation to the secured party.

(3) This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

679.210 Request for accounting; request regarding list of collateral or statement of account.—

(1) In this section, the term:

(a) "Request" means a record of a type described in paragraph (b), paragraph (c), or paragraph (d).

(b) "Request for an accounting" means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(c) "Request regarding a list of collateral" means a record authenticated by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(d) "Request regarding a statement of account" means a record authenticated by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(e) "Reasonably identifying the transaction or relationship" means that the request provides information sufficient for the person to identify the transaction or relationship and respond to the request. Pursuant to s. 679.603(1), a secured party and debtor may determine by agreement the standards for measuring fulfillment of this duty.

(f) "Person" means a person or entity that is or was a secured party or otherwise claims or has claimed an interest in the collateral.

(2) Subject to subsections (3), (4), (5), and (6), a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within 14 days after receipt:

(a) In the case of a request for an accounting, by authenticating and sending to the debtor an accounting; and

(b) In the case of a request regarding a list of collateral or a request regarding a statement of account, by authenticating and sending to the debtor an approval or correction.

(3) A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an authenticated record including a statement to that effect within 14 days after receipt.

(4) A person who receives a request regarding a list of collateral, claims no interest in the collateral when the request is received, and claimed an interest in the collateral at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

(a) Disclaiming any interest in the collateral; and

(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(5) A person who receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when the request is received, and claimed an interest in the obligations at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

(a) Disclaiming any interest in the obligations; and

(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(6) A debtor is entitled under this section without charge to one response to a request for an accounting or a request regarding a statement of account for each secured obligation during any 6-month period. A debtor in a consumer transaction is entitled to a single response to a request regarding a list of collateral, for a transaction other than a consumer transaction, without charge during any 6-month period. The secured party may require payment of a charge not exceeding $25 for each additional response to a request for an accounting, a request regarding a statement of account, or a request regarding a list of collateral for a consumer transaction. To the extent provided in an authenticated record, the secured party may require the payment of reasonable expenses, including attorney's fees, reasonably incurred in providing a response to a request regarding a list of collateral for a transaction other than a consumer transaction under this section; otherwise, the secured party may not charge more than $25 for each request regarding a list of collateral. Excluding a request related to a proposed satisfaction of the secured obligation, a secured party is not required to respond to more than 12 of each of the permitted requests in any 12-month period.

Section 3. Part III of chapter 679, Florida Statutes, consisting of sections 679.301, 679.302, 679.303, 679.304, 690.305, 679.306, 679.307, 679.308, 679.309, 679.310, 679.311, 679.312, 679.313, 679.314, 679.315, 679.316, 679.317, and 679.318, Florida Statutes, is repealed and a new part III of that chapter, consisting of sections 679.3011, 679.3021, 679.3031, 679.3041, 690.3051, 679.3061, 679.3071, 679.3081, 679.3091, 679.3101, 679.3111, 679.3121, 679.3131, 679.3141, 679.3151, 679.3161, 679.3171, 679.3181, 679.319, 679.320, 679.321, 679.322, 679.323, 679.324, 679.325, 679.326, 679.327, 679.328, 679.329, 679.330, 679.331, 679.332, 679.333, 679.334, 679.335, 679.336, 679.337, 679.3381, 679.339, 679.340, 679.341, and 679.342, Florida Statutes, is created to read:

PART III
PERFECTION AND PRIORITY

679.3011 Law governing perfection and priority of security interests.—Except as otherwise provided in ss. 679.1091, 679.3031, 679.3041, 679.3051, and 679.3061, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in subsection (4), while negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(a) Perfection of a security interest in the goods by filing a fixture filing;

(b) Perfection of a security interest in timber to be cut; and

(c) The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

679.3021 Law governing perfection and priority of agricultural liens.—While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

679.3031 Law governing perfection and priority of security interests in goods covered by a certificate of title.—

(1) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(2) Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(3) The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

679.3041 Law governing perfection and priority of security interests in deposit accounts.—

(1) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(2) The following rules determine a bank's jurisdiction for purposes of this part:

(a) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part, this chapter, or the Uniform Commercial Code, that jurisdiction is the bank's jurisdiction.

(b) If paragraph (a) does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(c) If neither paragraph (a) nor paragraph (b) applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an

office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(d) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(e) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

679.3051 Law governing perfection and priority of security interests in investment property.—

(1) Except as otherwise provided in subsection (3), the following rules apply:

(a) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby.

(b) The local law of the issuer's jurisdiction as specified in s. 678.1101(4) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(c) The local law of the securities intermediary's jurisdiction as specified in s. 678.1101(5) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(d) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(2) The following rules determine a commodity intermediary's jurisdiction for purposes of this part:

(a) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part, this chapter, or the Uniform Commercial Code, that jurisdiction is the commodity intermediary's jurisdiction.

(b) If paragraph (a) does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(c) If neither paragraph (a) nor paragraph (b) applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(d) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(e) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(3) The local law of the jurisdiction in which the debtor is located governs:

(a) Perfection of a security interest in investment property by filing;

(b) Automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

(c) Automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

679.3061 Law governing perfection and priority of security interests in letter-of-credit rights.—

(1) Subject to subsection (3), the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(2) For purposes of this part, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in s. 675.116.

(3) This section does not apply to a security interest that is perfected only under s. 679.3081(4).

679.3071 Location of debtor.—

(1) In this section, the term "place of business" means a place where a debtor conducts its affairs.

(2) Except as otherwise provided in this section, the following rules determine a debtor's location:

(a) A debtor who is an individual is located at the individual's principal residence.

(b) A debtor that is an organization and has only one place of business is located at its place of business.

(c) A debtor that is an organization and has more than one place of business is located at its chief executive office.

(3) Subsection (2) applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (2) does not apply, the debtor is located in the District of Columbia.

(4) A person who ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (2) and (3).

(5) A registered organization that is organized under the law of a state is located in that state.

(6) Except as otherwise provided in subsection (9), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(a) In the state that the law of the United States designates, if the law designates a state of location;

(b) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location; or

(c) In the District of Columbia, if neither paragraph (a) nor paragraph (b) applies.

(7) A registered organization continues to be located in the jurisdiction specified by subsection (5) or subsection (6) notwithstanding:

(a) The suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or

(b) The dissolution, winding up, or cancellation of the existence of the registered organization.

(8) The United States is located in the District of Columbia.

(9) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one state.

(10) A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(11) This section applies only for purposes of this part.

679.3081 When security interest or agricultural lien is perfected; continuity of perfection.—

(1) Except as otherwise provided in this section and s. 679.3091, a security interest is perfected if it has attached and all of the applicable requirements for perfection in ss. 679.3101-679.3161 have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(2) An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in s. 679.3101 have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(3) A security interest or agricultural lien is perfected continuously if it is originally perfected by one method under this chapter and is later perfected by another method under this chapter, without an intermediate period during which it was unperfected.

(4) Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

(5) Perfection of a security interest in a right to payment or performance also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right.

(6) Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(7) Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

679.3091 Security interest perfected upon attachment.—The following security interests are perfected when they attach:

(1) A purchase-money security interest in consumer goods, except as otherwise provided in s. 679.3111(2) with respect to consumer goods that are subject to a statute or treaty described in s. 679.3111(1);

(2) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;

(3) A sale of a payment intangible;

(4) A sale of a promissory note;

(5) A security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;

(6) A security interest arising under s. 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5), until the debtor obtains possession of the collateral;

(7) A security interest of a collecting bank arising under s. 674.2101;

(8) A security interest of an issuer or nominated person arising under s. 675.118;

(9) A security interest arising in the delivery of a financial asset under s. 679.2061(3);

(10) A security interest in investment property created by a broker or securities intermediary;

(11) A security interest in a commodity contract or a commodity account created by a commodity intermediary;

(12) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; and

(13) A security interest created by an assignment of a beneficial interest in a decedent's estate.

679.3101 When filing required to perfect security interest or agricultural lien; security interests and agricultural liens to which filing provisions do not apply.—

(1) Except as otherwise provided in subsection (2) and s. 679.3121(2), a financing statement must be filed to perfect all security interests and agricultural liens.

(2) The filing of a financing statement is not necessary to perfect a security interest:

(a) That is perfected under s. 679.3081(4), (5), (6), or (7);

(b) That is perfected under s. 679.3091 when it attaches;

(c) In property subject to a statute, regulation, or treaty described in s. 679.3111(1);

(d) In goods in possession of a bailee which is perfected under s. 679.3121(4)(a) or (b);

(e) In certificated securities, documents, goods, or instruments which is perfected without filing or possession under s. 679.3121(5), (6), or (7);

(f) In collateral in the secured party's possession under s. 679.3131;

(g) In a certificated security which is perfected by delivery of the security certificate to the secured party under s. 679.3131;

(h) In deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights which is perfected by control under s. 679.3141;

(i) In proceeds which is perfected under s. 679.3151; or

(j) That is perfected under s. 679.3161.

(3) If a secured party assigns a perfected security interest or agricultural lien, a filing under this chapter is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

679.3111 Perfection of security interests in property subject to certain statutes, regulations, and treaties.—

(1) Except as otherwise provided in subsection (4), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(a) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt s. 679.3101(1);

(b) A statute covering automobiles, trailers, mobile homes, boats, farm tractors, or the like, which provides for a security interest to be indicated on a certificate of title of such property as a condition or result of perfection, and any non-Uniform Commercial Code central filing statute; or

(c) A certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(2) Compliance with the requirements of a statute, regulation, or treaty described in paragraph (1) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this chapter. Except as otherwise provided in subsection (4) and ss.

679.3131 and 679.3161(4) and (5) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (1) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(3) Except as otherwise provided in subsection (4) and s. 679.3161(4) and (5), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (1) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this chapter.

(4) During any period in which collateral subject to a statute specified in paragraph (1)(b) is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

679.3121 Perfection of security interests in chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letter-of-credit rights, and money; perfection by permissive filing; temporary perfection without filing or transfer of possession.—

(1) A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(2) Except as otherwise provided in s. 679.3151(3) and (4) for proceeds:

(a) A security interest in a deposit account may be perfected only by control under s. 679.3141.

(b) And except as otherwise provided in s. 679.3081(4), a security interest in a letter-of-credit right may be perfected only by control under s. 679.3141.

(c) A security interest in money may be perfected only by the secured party's taking possession under s. 679.3131.

(3) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(a) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(b) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(4) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(a) Issuance of a document in the name of the secured party;

(b) The bailee's receipt of notification of the secured party's interest; or

(c) Filing as to the goods.

(5) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession for a period of 20 days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(6) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for 20 days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(a) Ultimate sale or exchange; or

(b) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(7) A perfected security interest in a certificated security or instrument remains perfected for 20 days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(a) Ultimate sale or exchange; or

(b) Presentation, collection, enforcement, renewal, or registration of transfer.

(8) After the 20-day period specified in subsection (5), subsection (6), or subsection (7) expires, perfection depends upon compliance with this chapter.

679.3131 When possession by or delivery to secured party perfects security interest without filing.—

(1) Except as otherwise provided in subsection (2), a secured party may perfect a security interest in negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under s. 678.3011.

(2) With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in s. 679.3161(4).

(3) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(a) The person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(b) The person takes possession of the collateral after having authenticated a record acknowledging that the person will hold possession of collateral for the secured party's benefit.

(4) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(5) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under s. 678.3011 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(6) A person in possession of collateral is not required to acknowledge that the person holds possession for a secured party's benefit.

(7) If a person acknowledges that the person holds possession for the secured party's benefit:

(a) The acknowledgment is effective under subsection (3) or s. 678.3011(1), even if the acknowledgment violates the rights of a debtor; and

(b) Unless the person otherwise agrees or law other than this chapter otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(8) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(a) To hold possession of the collateral for the secured party's benefit; or

(b) To redeliver the collateral to the secured party.

(9) A secured party does not relinquish possession, even if a delivery under subsection (8) violates the rights of a debtor. A person to whom collateral is delivered under subsection (8) does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this chapter otherwise provides.

679.3141 Perfection by control.—

(1) A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper may be perfected by control of the collateral under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071.

(2) A security interest in deposit accounts, electronic chattel paper, or letter-of-credit rights is perfected by control under s. 679.1041, s. 679.1051, or s. 679.1071 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(3) A security interest in investment property is perfected by control under s. 679.1061 from the time the secured party obtains control and remains perfected by control until:

(a) The secured party does not have control; and

(b) One of the following occurs:

1. If the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

2. If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

3. If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

679.3151 Secured party's rights on disposition of collateral and in proceeds.—

(1) Except as otherwise provided in this chapter and in s. 672.403(2):

(a) A security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and

(b) A security interest attaches to any identifiable proceeds of collateral.

(2) Proceeds that are commingled with other property are identifiable proceeds:

(a) If the proceeds are goods, to the extent provided by s. 679.336; and

(b) If the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than this chapter with respect to commingled property of the type involved.

(3) A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(4) A perfected security interest in proceeds becomes unperfected on the 21st day after the security interest attaches to the proceeds unless:

(a) The following conditions are satisfied:

1. A filed financing statement covers the original collateral;

2. The proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed; and

3. The proceeds are not acquired with cash proceeds;

(b) The proceeds are identifiable cash proceeds; or

(c) The security interest in the proceeds is perfected other than under subsection (3) when the security interest attaches to the proceeds or within 20 days thereafter.

(5) If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under paragraph (4)(a) becomes unperfected at the later of:

(a) When the effectiveness of the filed financing statement lapses under s. 679.515 or is terminated under s. 679.513; or

(b) The 21st day after the security interest attaches to the proceeds.

679.3161 Continued perfection of security interest following change in governing law.—

(1) A security interest perfected pursuant to the law of the jurisdiction designated in s. 679.3011(1) or s. 679.3051(3) remains perfected until the earliest of:

(a) The time perfection would have ceased under the law of that jurisdiction;

(b) The expiration of 4 months after a change of the debtor's location to another jurisdiction; or

(c) The expiration of 1 year after a transfer of collateral to a person who thereby becomes a debtor and is located in another jurisdiction.

(2) If a security interest described in subsection (1) becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(3) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(a) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(b) Thereafter the collateral is brought into another jurisdiction; and

(c) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(4) Except as otherwise provided in subsection (5), a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(5) A security interest described in subsection (4) becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under s. 679.3111(2) or s. 679.3131 are not satisfied before the earlier of:

(a) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or

(b) The expiration of 4 months after the goods had become so covered.

(6) A security interest in deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(a) The time the security interest would have become unperfected under the law of that jurisdiction; or

(b) The expiration of 4 months after a change of the applicable jurisdiction to another jurisdiction.

(7) If a security interest described in subsection (6) becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

679.3171 Interests that take priority over or take free of security interest or agricultural lien.—

(1) A security interest or agricultural lien is subordinate to the rights of:

(a) A person entitled to priority under s. 679.322; and

(b) Except as otherwise provided in subsection (5), a person who becomes a lien creditor before the earlier of the time:

1. The security interest or agricultural lien is perfected; or

2. One of the conditions specified in s. 679.2031(2)(c) is met and a financing statement covering the collateral is filed.

(2) Except as otherwise provided in subsection (5), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(3) Except as otherwise provided in subsection (5), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(4) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(5) Except as otherwise provided in ss. 679.320 and 679.321, if a person files a financing statement with respect to a purchase-money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

679.3181 No interest retained in right to payment that is sold; rights and title of seller of account or chattel paper with respect to creditors and purchasers.—

(1) A debtor who has sold an account, chattel paper, payment intangible, or promissory note does not retain a legal or equitable interest in the collateral sold.

(2) For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a debtor who has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

679.319 Rights and title of consignee with respect to creditors and purchasers.—

(1) Except as otherwise provided in subsection (2), for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee is deemed to have rights and title to the goods identical to those the consignor had or had power to transfer.

(2) For purposes of determining the rights of a creditor of a consignee, law other than this chapter determines the rights and title of a consignee while goods are in the consignee's possession if, under this part, a perfected security interest held by the consignor would have priority over the rights of the creditor.

679.320 Buyer of goods.—

(1) Except as otherwise provided in subsection (5), a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(2) Except as otherwise provided in subsection (5), a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

(a) Without knowledge of the security interest;

(b) For value;

(c) Primarily for the buyer's personal, family, or household purposes; and

(d) Before the filing of a financing statement covering the goods.

(3) To the extent that it affects the priority of a security interest over a buyer of goods under subsection (2), the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by s. 679.3161(1) and (2).

(4) A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(5) Subsections (1) and (2) do not affect a security interest in goods in the possession of the secured party under s. 679.3131.

679.321 Licensee of general intangible and lessee of goods in ordinary course of business.—

(1) In this section, the term "licensee in ordinary course of business" means a person who becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

(2) A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

(3) A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

679.322 Priorities among conflicting security interests in and agricultural liens on same collateral.—

(1) Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

(a) Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made or the security interest or agricultural lien is first perfected, if there is no period thereafter during which is neither filing nor perfection.

(b) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

(c) The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.

(2) For the purposes of paragraph (1)(a):

(a) The time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds; and

(b) The time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(3) Except as otherwise provided in subsection (6), a security interest in collateral which qualifies for priority over a conflicting security interest under s. 679.327, s. 679.328, s. 679.329, s. 679.330, or s. 679.331 also has priority over a conflicting security interest in:

(a) Any supporting obligation for the collateral; and

(b) Proceeds of the collateral if:

1. The security interest in proceeds is perfected;

2. The proceeds are cash proceeds or of the same type as the collateral; and

3. In the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(4) Subject to subsection (5) and except as otherwise provided in subsection (6), if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(5) Subsection (4) applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

(6) Subsections (1) through (5) are subject to:

(a) Subsection (7) and the other provisions of this part;

(b) Section 674.2101 with respect to a security interest of a collecting bank;

(c) Section 675.118 with respect to a security interest of an issuer or nominated person; and

(d) Section 679.1101 with respect to a security interest arising under chapter 672 or chapter 680.

(7) A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

679.323 Future advances.—

(1) Except as otherwise provided in subsection (3), for purposes of determining the priority of a perfected security interest under s. 679.322(1)(a), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(a) Is made while the security interest is perfected only:

1. Under s. 679.3091 when it attaches; or

2. Temporarily under s. 679.3121(5), (6), or (7); and

(b) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under s. 679.3091 or s. 679.3121(5), (6), or (7).

(2) Except as otherwise provided in subsection (3), a security interest is subordinate to the rights of a person who becomes a lien creditor to the extent that the security interest secures an advance made more than 45 days after the person becomes a lien creditor unless the advance is made:

(a) Without knowledge of the lien; or

(b) Pursuant to a commitment entered into without knowledge of the lien.

(3) Subsections (1) and (2) do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(4) Except as otherwise provided in subsection (5), a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the buyer's purchase; or

(b) Forty-five days after the purchase.

(5) Subsection (4) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the 45-day period.

(6) Except as otherwise provided in subsection (7), a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the lease; or

(b) Forty-five days after the lease contract becomes enforceable.

(7) Subsection (6) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.

679.324 Priority of purchase-money security interests.—

(1) Except as otherwise provided in subsection (7), a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in s. 679.327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within 20 days thereafter.

(2) Subject to subsection (3) and except as otherwise provided in subsection (7), a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in s. 679.330, and, except as otherwise provided in s. 679.327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(a) The purchase-money security interest is perfected when the debtor receives possession of the inventory;

(b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(c) The holder of the conflicting security interest receives the notification within 5 years before the debtor receives possession of the inventory; and

(d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(3) Paragraphs (2)(b), (c), and (d) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(b) If the purchase-money security interest is temporarily perfected without filing or possession under s. 679.3121(6), before the beginning of the 20-day period thereunder.

(4) Subject to subsection (5) and except as otherwise provided in subsection (7), a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in s. 679.327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(a) The purchase-money security interest is perfected when the debtor receives possession of the livestock;

(b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(c) The holder of the conflicting security interest receives the notification within 6 months before the debtor receives possession of the livestock; and

(d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(5) Paragraphs (4)(b), (c), and (d) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(b) If the purchase-money security interest is temporarily perfected without filing or possession under s. 679.3121(6), before the beginning of the 20-day period thereunder.

(6) Except as otherwise provided in subsection (7), a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in s. 679.327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(7) If more than one security interest qualifies for priority in the same collateral under subsection (1), subsection (2), subsection (4), or subsection (6):

(a) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(b) In all other cases, s. 679.322(1) applies to the qualifying security interests.

679.325 Priority of security interests in transferred collateral.—

(1) Except as otherwise provided in subsection (2), a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

(a) The debtor acquired the collateral subject to the security interest created by the other person;

(b) The security interest created by the other person was perfected when the debtor acquired the collateral; and

(c) There is no period thereafter during which the security interest is unperfected.

(2) Subsection (1) subordinates a security interest only if the security interest:

(a) Otherwise would have priority solely under s. 679.322(1) or s. 679.324; or

(b) Arose solely under s. 672.711(3) or s. 680.508(5).

679.326 Priority of security interests created by new debtor.—

(1) Subject to subsection (2), a security interest created by a new debtor which is perfected by a filed financing statement that is effective solely under s. 679.508 in collateral in which a new debtor has or acquires rights is subordinate to a security interest in the same collateral which is perfected other than by a filed financing statement that is effective solely under s. 679.508.

(2) The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under s. 679.508. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

679.327 Priority of security interests in deposit account.—The following rules govern priority among conflicting security interests in the same deposit account:

(1) A security interest held by a secured party having control of the deposit account under s. 679.1041 has priority over a conflicting security interest held by a secured party that does not have control.

(2) Except as otherwise provided in subsections (3) and (4), security interests perfected by control under s. 679.3141 rank according to priority in time of obtaining control.

(3) Except as otherwise provided in subsection (4), a security interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.

(4) A security interest perfected by control under s. 679.1041(1)(c) has priority over a security interest held by the bank with which the deposit account is maintained.

679.328 Priority of security interests in investment property.—The following rules govern priority among conflicting security interests in the same investment property:

(1) A security interest held by a secured party having control of investment property under s. 679.1061 has priority over a security interest held by a secured party that does not have control of the investment property.

(2) Except as otherwise provided in subsections (3) and (4), conflicting security interests held by secured parties each of which has control under s. 679.1061 rank according to priority in time of:

(a) If the collateral is a security, obtaining control;

(b) If the collateral is a security entitlement carried in a securities account and:

1. If the secured party obtained control under s. 678.1061(4)(a), the secured party's becoming the person for which the securities account is maintained;

2. If the secured party obtained control under s. 678.1061(4)(b), the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account; or

3. If the secured party obtained control through another person under s. 678.1061(4)(c), the time on which priority would be based under this paragraph if the other person were the secured party; or

(c) If the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in s. 679.1061(2)(b) with respect to commodity contracts carried or to be carried with the commodity intermediary.

(3) A security interest held by a securities intermediary in a security entitlement or a securities account maintained with the securities intermediary has priority over a conflicting security interest held by another secured party.

(4) A security interest held by a commodity intermediary in a commodity contract or a commodity account maintained with the commodity intermediary has priority over a conflicting security interest held by another secured party.

(5) A security interest in a certificated security in registered form which is perfected by taking delivery under s. 679.3131(1) and not by control under s. 679.3141 has priority over a conflicting security interest perfected by a method other than control.

(6) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary which are perfected without control under s. 679.1061 rank equally.

(7) In all other cases, priority among conflicting security interests in investment property is governed by ss. 679.322 and 679.323.

679.329 Priority of security interests in letter-of-credit right.—The following rules govern priority among conflicting security interests in the same letter-of-credit right:

(1) A security interest held by a secured party having control of the letter-of-credit right under s. 679.1071 has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(2) Security interests perfected by control under s. 679.3141 rank according to priority in time of obtaining control.

679.330 Priority of purchaser of chattel paper or instrument.—

(1) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(a) In good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under s. 679.1051; and

(b) The chattel paper does not indicate that it has been assigned to an identified assignee other than the purchaser.

(2) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under s. 679.1051 in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(3) Except as otherwise provided in s. 679.327, a purchaser having priority in chattel paper under subsection (1) or subsection (2) also has priority in proceeds of the chattel paper to the extent that:

(a) Section 679.322 provides for priority in the proceeds; or

(b) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(4) Except as otherwise provided in s. 679.331(1), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(5) For purposes of subsections (1) and (2), the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(6) For purposes of subsections (2) and (4), if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

679.331 Priority of rights of purchasers of instruments, documents, and securities under other articles; priority of interests in financial assets and security entitlements under chapter 678.—

(1) This chapter does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in chapters 673, 677, and 678.

(2) This chapter does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of an adverse claim under chapter 678.

(3) Filing under this chapter does not constitute notice of a claim or defense to the holders, purchasers, or persons described in subsections (1) and (2).

679.332 Transfer of money; transfer of funds from deposit account.—

(1) A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

(2) A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

679.333 Priority of certain liens arising by operation of law.—

(1) In this section, the term "possessory lien" means an interest, other than a security interest or an agricultural lien:

(a) Which secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business;

(b) Which is created by statute or rule of law in favor of the person; and

(c) The effectiveness of which depends on the person's possession of the goods.

(2) A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

679.334 Priority of security interests in fixtures and crops.—

(1) A security interest under this chapter may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this chapter in ordinary building materials incorporated into an improvement on land.

(2) This chapter does not prevent creation of an encumbrance upon fixtures under real property law.

(3) A security interest in goods which are or become fixtures is invalid against any person with an interest in the real property at the time the security interest in the goods is perfected or at the time the goods are affixed to the real property, whichever occurs later, unless such person has consented to the security interest or disclaimed an interest in the goods as fixtures.

(4) A security interest in goods which are or become fixtures takes priority as to the goods over the claims of all persons acquiring an interest in the real property subsequent to the perfection of such security interest or the affixing of the goods to the real property, whichever occurs later.

(5) A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the security interest is:

(a) Created in a manufactured home in a manufactured-home transaction; and

(b) Perfected pursuant to a statute described in s. 679.3111(1)(b).

(6) A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

(7) Subsection (6) prevails over any inconsistent provisions of the statutes.

679.335 Accessions.—

(1) A security interest may be created in an accession and continues in collateral that becomes an accession.

(2) If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(3) Except as otherwise provided in subsection (4), the other provisions of this part determine the priority of a security interest in an accession.

(4) A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under s. 679.3111(2).

(5) After default, subject to part VI, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(6) A secured party that removes an accession from other goods under subsection (5) shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

679.336 Commingled goods.—

(1) In this section, the term "commingled goods" means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

(2) A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

(3) If collateral becomes commingled goods, a security interest attaches to the product or mass.

(4) If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection (3) is perfected.

(5) Except as otherwise provided in subsection (6), the other provisions of this part determine the priority of a security interest that attaches to the product or mass under subsection (3).

(6) If more than one security interest attaches to the product or mass under subsection (3), the following rules determine priority:

(a) A security interest that is perfected under subsection (4) has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

(b) If more than one security interest is perfected under subsection (4), the security interests rank equally in proportion to value of the collateral at the time it became commingled goods.

679.337 Priority of security interests in goods covered by certificate of title.—If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this state issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they may be subject to security interests not shown on the certificate:

(1) A buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and

(2) The security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under s. 679.3111(2), after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

679.338 Priority of security interest or agricultural lien perfected by filed financing statement providing certain incorrect information.—If a security interest or agricultural lien is perfected by a filed financing statement providing information described in s. 679.516(2)(e) which is incorrect at the time the financing statement is filed:

(1) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of chattel paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

679.339 Priority subject to subordination.—This chapter does not preclude subordination by agreement by a person entitled to priority.

679.340 Effectiveness of right of recoupment or set-off against deposit account.—

(1) Except as otherwise provided in subsection (3), a bank with which a deposit account is maintained may exercise any right of recoupment or set-off against a secured party that holds a security interest in the deposit account.

(2) Except as otherwise provided in subsection (3), the application of this chapter to a security interest in a deposit account does not affect a right of recoupment or set-off of the secured party as to a deposit account maintained with the secured party.

(3) The exercise by a bank of a set-off against a deposit account is ineffective against a secured party that holds a security interest in the deposit account which is perfected by control under s. 679.1041(1)(c), if the set-off is based on a claim against the debtor.

679.341 Bank's rights and duties with respect to deposit account.—Except as otherwise provided in s. 679.340(3), and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

(1) The creation, attachment, or perfection of a security interest in the deposit account;

(2) The bank's knowledge of the security interest; or

(3) The bank's receipt of instructions from the secured party.

679.342 Bank's right to refuse to enter into or disclose existence of control agreement.—This chapter does not require a bank to enter into an agreement of the kind described in s. 679.1041(1)(b), even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

Section 4. Part IV of chapter 679, Florida Statutes, consisting of sections 679.401, 679.4011, 679.402, 679.403, 679.404, 679.405, 679.406, 679.407, and 679.408, Florida Statutes, is repealed and a new part IV, consisting of sections 679.40111, 679.4021, 679.4031, 679.4041, 679.4051, 679.4061, 679.4071, 679.4081, and 679.409, Florida Statutes, is created to read:

PART IV
RIGHTS OF THIRD PARTIES

679.40111 Alienability of debtor's rights.—

(1) Except as otherwise provided in subsection (2) and ss. 679.4061, 679.4071, 679.4081, and 679.409, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this chapter.

(2) An agreement between the debtor and secured party which prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

679.4021 Secured party not obligated on contract of debtor or in tort.—The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

679.4031 Agreement not to assert defenses against assignee.—

(1) In this section, the term "value" has the meaning provided in s. 673.3031(1).

(2) Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

(a) For value;

(b) In good faith;

(c) Without notice of a claim of a property or possessory right to the property assigned; and

(d) Without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under s. 673.3031(1).

(3) Subsection (2) does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under s. 673.3031(2).

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this chapter requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and the record does not include such a statement:

(a) The record has the same effect as if the record included such a statement; and

(b) The account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

(5) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(6) Except as otherwise provided in subsection (4), this section does not displace law other than this chapter which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

679.4041 Rights acquired by assignee; claims and defenses against assignee.—

(1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (2) through (5), the rights of an assignee are subject to:

(a) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(b) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.

(2) Subject to subsection (3) and except as otherwise provided in subsection (4), the claim of an account debtor against an assignor may be asserted against an assignee under subsection (1) only to reduce the amount the account debtor owes.

(3) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this chapter requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(5) This section does not apply to an assignment of a health-care-insurance receivable.

679.4051 Modification of assigned contract.—

(1) A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (2) through (4).

(2) Subsection (1) applies to the extent that:

(a) The right to payment or a part thereof under an assigned contract has not been fully earned by performance; or

(b) The right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under s. 679.4061(1).

(3) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) This section does not apply to an assignment of a health-care-insurance receivable.

679.4061 Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.—

(1) Subject to subsections (2) through (9), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(2) Subject to subsection (8), notification is ineffective under subsection (1):

(a) If it does not reasonably identify the rights assigned;

(b) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this chapter; or

(c) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

1. Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

2. A portion has been assigned to another assignee; or

3. The account debtor knows that the assignment to that assignee is limited.

(3) Subject to subsection (8), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (1).

(4) Except as otherwise provided in subsection (5) and ss. 680.303 and 679.4071, and subject to subsection (8), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(a) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(5) Subsection (4) does not apply to the sale of a payment intangible or promissory note.

(6) Except as otherwise provided in ss. 680.303 and 679.4071 and subject to subsections (8) and (9), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(a) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(7) Subject to subsection (8), an account debtor may not waive or vary its option under paragraph (2)(c).

(8) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes. Subsection (6) does not apply to the creation, attachment, perfection, or enforcement of a security interest in:

(a) A claim of a debtor who is a natural person against an employer to receive compensation for injuries or sickness while an employee.

(b) The interest of a debtor who is a natural person in unemployment, alimony, disability, pension, or retirement benefits or victim compensation funds.

(c) The interest of a debtor who is a natural person in other benefits which are designated solely for his or her maintenance, support, or education, the assignability of which is expressly prohibited or restricted by any statute.

However, this provision shall not preclude such debtor's creation, attachment, perfection, or enforcement of a security interest in a settlement arising from a personal injury claim other than one against an employer arising out of the debtor's employment.

(9) This section does not apply to an assignment of a health-care-insurance receivable.

(10) This section prevails over any inconsistent statute, rule, or regulation.

679.4071 Restrictions on creation or enforcement of security interest in leasehold interest or in lessor's residual interest.—

(1) Except as otherwise provided in subsection (2), a term in a lease agreement is ineffective to the extent that it:

(a) Prohibits, restricts, or requires the consent of a party to the lease to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(2) Except as otherwise provided in s. 680.303(7), a term described in paragraph (1)(b) is effective to the extent that there is:

(a) A transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(b) A delegation of a material performance of either party to the lease contract in violation of the term.

(3) The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of s. 680.303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

679.4081 Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective.—

(1) Except as otherwise provided in subsection (2), a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(a) Would impair the creation, attachment, or perfection of a security interest; or

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(2) Subsection (1) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(3) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(a) Would impair the creation, attachment, or perfection of a security interest; or

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(4) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (3) would be effective under law other than this chapter but is ineffective under subsection (1) or subsection (3), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(a) Is not enforceable against the person obligated on the promissory note or the account debtor;

(b) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(c) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(d) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(e) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(f) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(5) This section prevails over any inconsistent statute, rule, or regulation.

(6) Subsection (3) does not apply to the creation, attachment, perfection, or enforcement of a security interest in:

(a) A claim of a debtor who is a natural person against an employer to receive compensation for injuries or sickness while an employee.

(b) The interest of a debtor who is a natural person in unemployment, alimony, disability, pension, or retirement benefits or victim compensation funds.

(c) The interest of a debtor who is a natural person in other benefits which are designated solely for his or her maintenance or support, the assignability of which is expressly prohibited or restricted by any statute.

However, this provision shall not preclude such debtor's creation, attachment, perfection, or enforcement of a security interest in a settlement arising from a personal injury claim other than one against an employer arising out of the debtor's employment.

679.409 Restrictions on assignment of letter-of-credit rights ineffective.—

(1) A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

(a) Would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or

(b) Provides that the assignment or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(2) To the extent that a term in a letter of credit is ineffective under subsection (1) but would be effective under law other than this chapter or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

(a) Is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

(b) Imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

(c) Does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

Section 5. *(1) The Legislature finds that it is in the best interest of the citizens and businesses of this state to adopt Part V of Revised Article 9 of the Uniform Commercial Code as proposed by the National Conference of Commissioners on Uniform State Law, "revised Article 9," subject to specific modifications, as revised chapter 679, Florida Statutes. Such revised Article 9 almost exclusively affects secured transactions and the relationships between and among secured creditors, debtors, other creditors, and purchasers of personal property subject to a security interest. Both individuals and business entities are intended to benefit from the enactment of revised Article 9.*

(2) The Legislature also finds that, among other things, revised Article 9 contemplates a more straightforward and efficient system for documenting the perfection, amendment, continuance, termination, assignment, and transfer of security interests and requires less governmental involvement than necessary under existing law. Revised Article 9 suggests the possibility that states may delegate their historical administrative and operational responsibilities over financing statement filings to a nongovernmental entity. This principle complements the legislative policy of reducing government's detailed regulation and involvement with private commerce and business transactions. Consistent with other revisions to current chapter 679, Florida Statutes, being adopted by this act, the requirement for exclusive administration and operation by this state of the system of filing and maintaining documents evidencing secured transactions no longer exists. However, the carrying out of the duties of the filing office and filing officer are very important to the uninterrupted flow of secured transactions and the Secretary of State shall retain oversight over the private filing agency to which the filing office and filing officer duties under revised Article 9, as revised chapter 679, Florida Statutes, may be delegated.

Section 6. Part V of chapter 679, Florida Statutes, consisting of sections 679.501, 679.502, 679.503, 679.504, 679.505, 679.506, and 679.507, Florida Statutes, is repealed and a new part V, consisting of sections 679.5011, 679.5021, 679.5031. 679.5041, 679.5051, 679.5061, 679.5071, 679.508, 679.509, 679.510, 679.511, 679.512, 679.513, 671.514, 679.515, 679.516, 679.517, 679.518, 679.519, 679.520, 679.521, 679.522, 679.523, 679.524, 679.525, 679.526, and 679.527, Florida Statutes, is created to read:

PART V
FILING

679.5011 Filing office.—

(1) Except as otherwise provided in subsection (2), the office in which to file a financing statement to perfect a security interest or agricultural lien is:

(a) The office of the clerk of the circuit court, if:

1. The collateral is as-extracted collateral or timber to be cut; or

2. The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures;

(b) The office of the Secretary of State, in accordance with ss. 679.3011-679.3071, and in all other cases.

(2) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

679.5021 Contents of financing statement; record of mortgage as financing statement; time of filing financing statement.—

(1) Subject to subsection (2), a financing statement is sufficient only if it:

(a) Provides the name of the debtor;

(b) Provides the name of the secured party or a representative of the secured party; and

(c) Indicates the collateral covered by the financing statement.

(2) Except as otherwise provided in s. 679.5011(2), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or that is filed as a fixture filing and covers goods that are or are to become fixtures, must comply with the requirements of subsection (1) and also:

(a) Indicate that it covers this type of collateral;

(b) Indicate that it is to be filed in the real property records;

(c) Provide a description of the real property to which the collateral is related; and

(d) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(3) A record of a mortgage satisfying the requirements of chapter 697 is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(a) The record of a mortgage indicates the goods or accounts that it covers;

(b) The goods are or are to become fixtures related to the real property described in the record of a mortgage or the collateral is related to the real property described in the mortgage and is as-extracted collateral or timber to be cut;

(c) The record of a mortgage complies with the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

(d) The record of a mortgage is recorded as required by chapter 697.

(4) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

679.5031 Name of debtor and secured party.—

(1) A financing statement sufficiently provides the name of the debtor:

(a) If the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the public record of the debtor's jurisdiction of organization which shows the debtor to have been organized;

(b) If the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate;

(c) If the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:

1. Provides the name, if any, specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish a debtor from other trusts having one or more of the same settlors; and

2. Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and

(d) In other cases:

1. If the debtor has a name, only if it provides the individual or organizational name of the debtor; and

2. If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor.

(2) A financing statement that provides the name of the debtor in accordance with subsection (1) is not rendered ineffective by the absence of:

(a) A trade name or other name of the debtor; or

(b) Unless required under subparagraph (1)(d)2., names of partners, members, associates, or other persons comprising the debtor.

(3) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(4) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(5) A financing statement may provide the name of more than one debtor and the name of more than one secured party.

679.5041 Indication of collateral.—A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

(1) A description of the collateral pursuant to s. 679.1081; or

(2) If the security agreement grants a security interest in all of the debtor's personal property and such property is reasonably identified in the security agreement, as permitted by s. 679.1081, an indication that the financing statement covers all assets or all personal property.

679.5051 Filing and compliance with other statutes and treaties for consignments, leases, bailments, and other transactions.—

(1) A consignor, lessor, or bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in s. 679.3111(1), using the terms "consignor," "consignee," "lessor," "lessee," "bailor," "bailee," "licensor," "licensee," "owner," "registered owner," "buyer," "seller," or words of similar import, instead of the terms "secured party" and "debtor."

(2) This part applies to the filing of a financing statement under subsection (1) and, as appropriate, to compliance that is equivalent to filing a financing statement under s. 679.3111(2), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

679.5061 Effect of errors or omissions.—

(1) A financing statement substantially complying with the requirements of this part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(2) Except as otherwise provided in subsection (3), a financing statement that fails sufficiently to provide the name of the debtor in accordance with s. 679.5031(1) is seriously misleading.

(3) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with s. 679.5031(1), the name provided does not make the financing statement seriously misleading.

(4) For purposes of s. 679.508(2), the term "debtor's correct name" as used in subsection (3) means the correct name of the new debtor.

679.5071 Effect of certain events on effectiveness of financing statement.—

(1) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(2) Except as otherwise provided in subsection (3) and s. 679.508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under the standard set forth in s. 679.5061.

(3) If a debtor so changes its name that a filed financing statement becomes seriously misleading under the standard set forth in s. 679.5061:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within 4 months after, the change; and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than 4 months after the change, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within 4 months after the change.

679.508 Effectiveness of financing statement if new debtor becomes bound by security agreement.—

(1) Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(2) If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (1) to be seriously misleading under the standard set forth in s. 679.5061:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within 4 months after, the new debtor becomes bound under s. 679.2031(4); and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than 4 months after the new debtor becomes bound under s. 679.2031(4) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(3) This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under s. 679.5071(1).

679.509 Persons entitled to file a record.—

(1) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(a) The debtor authorizes the filing in an authenticated record or pursuant to subsection (2) or subsection (3); or

(b) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(2) By authenticating or becoming bound as a debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(a) The collateral described in the security agreement; and

(b) Property that becomes collateral under s. 679.3151(1)(b), whether or not the security agreement expressly covers proceeds.

(3) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(a) The secured party of record authorizes the filing; or

(b) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by s. 679.5131(1) or (3).

(4) If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (3).

(5) By acquiring collateral in which a security interest or agricultural lien continues under s. 679.3151(1), a debtor authorizes the filing of an initial financing, and an amendment, covering the collateral and property that become collateral under s. 679.3151(1)(b).

679.510 Effectiveness of filed record.—

(1) Subject to subsection (3), a filed record is effective only to the extent that it was filed by a person who may file it under s. 679.509.

(2) A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

(3) If a person may file a termination statement only under s. 679.509(3)(b), the filed termination statement is effective only if the debtor authorizes the filing and the termination statement indicates that the debtor authorized it to be filed.

(4) A continuation statement that is not filed within the 6-month period prescribed by s. 679.515(4) is ineffective.

679.511 Secured party of record.—

(1) A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under s. 679.514(1), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(2) If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under s. 679.514(2), the assignee named in the amendment is a secured party of record.

(3) A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

679.512 Amendment of financing statement.—

(1) Subject to s. 679.509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (5), otherwise amend the information provided in, a financing statement by filing an amendment that:

(a) Identifies, by its correct file number, if any, the initial financing statement to which the amendment relates, and the name of the debtor and the secured party of record; and

(b) If the amendment relates to an initial financing statement filed or recorded in a filing office described in s. 679.5011(1)(a), provides the information specified in s. 679.5021(2), the official records book and page number of the initial financing statement to which the amendment relates, and the name of the debtor and secured party of record.

(2) Except as otherwise provided in s. 679.515, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(3) A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(4) A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(5) An amendment is ineffective to the extent it:

(a) Purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

(b) Purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

679.513 Termination statement.—

(1) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(a) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) The debtor did not authorize the filing of the initial financing statement.

(2) To comply with subsection (1), a secured party shall cause the secured party of record to file the termination statement:

(a) Within 1 month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) If earlier, within 20 days after the secured party receives an authenticated demand from a debtor.

(3) In cases not governed by subsection (1), within 20 days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(a) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(b) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(c) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(d) The debtor did not authorize the filing of the initial financing statement.

(4) Except as otherwise provided in s. 679.510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in s. 679.510, for purposes of ss. 679.519(7) and 679.522(1), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

679.514 Assignment of powers of secured party of record.—

(1) Except as otherwise provided in subsection (3), an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

(2) Except as otherwise provided in subsection (3), a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

(a) Identifies, by its correct file number and the secured party of record, the initial financing statement to which it relates;

(b) Provides the names of the assignor and debtor; and

(c) Provides the name and mailing address of the assignee.

(3) An assignment of record of a security interest in a fixture covered by a real property mortgage that is effective as a fixture filing under s. 679.5021(3) may be made only by an assignment of record of the mortgage in the manner provided by s. 701.02.

679.515 Duration and effectiveness of financing statement; effect of lapsed financing statement.—

(1) Except as otherwise provided in subsections (2), (5), (6), and (7), a filed financing statement is effective for a period of 5 years after the date of filing.

(2) Except as otherwise provided in subsections (5), (6), and (7), an initial financing statement filed in connection with a manufactured-home transaction is effective for a period of 30 years after the date of filing if it indicates that it is filed in connection with a manufactured-home transaction.

(3) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless, before the lapse, a continuation statement is filed pursuant to subsection (4). Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected without filing. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(4) A continuation statement may be filed only within 6 months before the expiration of the 5-year period specified in subsection (1) or the 30-year period specified in subsection (2), whichever is applicable.

(5) Except as otherwise provided in s. 679.510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of 5 years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the 5-year period, the financing statement lapses in the same manner as provided in subsection (3), unless, before the lapse, another continuation statement is filed pursuant to subsection (4). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(6) If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.

(7) A record of a mortgage satisfying the requirements of chapter 697 that is effective as a fixture filing under s. 679.5021(3) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

679.516 What constitutes filing; effectiveness of filing.—

(1) Except as otherwise provided in subsection (2), communication of a record to a filing office, tender of the processing fee, or acceptance of the record by the filing office constitutes filing.

(2) Filing does not occur with respect to a record that a filing office refuses to accept because:

(a) The record is not communicated by a method or medium of communication authorized by the filing office;

(b) An amount equal to or greater than the applicable processing fee is not tendered;

(c) The record does not include the notation required by s. 201.22 indicating that the excise tax required by chapter 201 had been paid or is not required;

(d) The filing office is unable to index the record because:

1. In the case of an initial financing statement, the record does not provide an organization's name or, if an individual, the individual's last name and first name or initial;

2. In the case of an amendment or correction statement, the record:

a. Does not correctly identify the initial financing statement as required by s. 679.512 or s. 679.518, as applicable; or

b. Identifies an initial financing statement the effectiveness of which has lapsed under s. 679.515;

3. In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name and first name or initial; or

4. In the case of a record filed or recorded in the filing office described in s. 679.5011(1)(a), the record does not provide a sufficient description of the real property to which it relates;

(e) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide an organization's name or, if an individual, the individual's last name and first name or initial and mailing address for the secured party of record;

(f) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

1. Provide a mailing address for the debtor;

2. Indicate whether the debtor is an individual or an organization; or

3. If the financing statement indicates that the debtor is an organization, provide:

a. A type of organization for the debtor;

b. A jurisdiction of organization for the debtor; or

c. An organizational identification number for the debtor or indicate that the debtor has none;

(g) In the case of an assignment reflected in an initial financing statement under s. 679.514(1) or an amendment filed under s. 679.514(2), the record does not provide an organization's name or, if an individual, the individual's last name and first name or initial and mailing address for the assignee;

(h) In the case of a continuation statement, the record is not filed within the 6-month period prescribed by s. 679.515(4);

(i) In the case of an initial financing statement or an amendment, which amendment requires the inclusion of a collateral statement but the record does not provide any, the record does not provide a statement of collateral; or

(3) For purposes of subsection (2):

(a) A record does not provide information if the filing office is unable to read or decipher the information; and

(b) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by s. 679.512, s. 679.514, or s. 679.518, is an initial financing statement.

(4) A record that is communicated to the filing office with tender of the filing fee, but that the filing office refuses to accept for a reason other than one set forth in subsection (2), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

(5)(a) If the Secretary of State reasonably and in good faith believes that:

1. A financing statement submitted for filing has been tendered to the wrong office; or

2. An exhibit or attachment specifically mentioned in the record as being attached is not attached; or

(b) If the filing office is unable to index the record because an amendment or correction statement was previously terminated under s. 679.513,

the filing office shall nevertheless conditionally accept the filing and give the financing statement a conditional filing number and record the date of filing as of the date it is received, the "conditional filing date," if it otherwise complies with this part. However, the financing statement may be rejected and the filing number and filing date purged from the filing office records if the person submitting the financing statement does not provide the filing office with information or documents satisfying the requirements of this part within 20 business days after the filing office sends an authenticated record stating an objection to the financing statement as permitted herein, which objection shall be sent within 3 business days after the financing statement is received by the filing office. If not rejected in accordance with this provision, the effective date of a conditionally accepted financing statement shall be the conditional filing date.

(6) If the Secretary of State reasonably and in good faith believes that a financing statement submitted for filing is fraudulent, the filing office shall nevertheless conditionally accept the filing and give the financing statement a conditional filing number and record the date of filing as the date it is received, the "conditional filing date," if it otherwise complies with this part. However, the financing statement may be rejected and the filing number and filing date purged from the filing office records if the person submitting the financing statement does not provide the filing office with information or documents supporting the legitimacy of the financing statement within 20 business days after the filing office sends an authenticated record stating an objection to the financing statement as permitted herein, which objection shall be sent within 3 business days after the financing statement is received by the filing office. If not rejected in accordance with this provision, the effective date of a conditionally accepted financing statement shall be the conditional filing date.

679.517 Effect of indexing errors.—The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

679.518 Claim concerning inaccurate or wrongfully filed record.—

(1) A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(2) A correction statement must:

(a) Identify the record to which it relates by the file number assigned to the initial financing statement, the debtor, and the secured party of record to which the record relates;

(b) Indicate that it is a correction statement; and

(c) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(3) The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.

679.519 Numbering, maintaining, and indexing records; communicating information provided in records.—

(1) For each record filed in a filing office, the filing office shall, in accordance with such other laws applicable to the recording of instruments by a filing office described in s. 679.5011(1)(a):

(a) Assign a unique number to the filed record;

(b) Create a record that bears the number assigned to the filed record and the date and time of filing;

(c) Maintain the filed record for public inspection; and

(d) Index the filed record in accordance with subsections (3), (4), and (5).

(2) Except as otherwise provided in subsection (9), a file number assigned after January 1, 2002, must include a digit that:

(a) Is mathematically derived from or related to the other digits of the file number; and

(b) Enables the filing office to detect whether a number communicated as the file number includes a single-digit or transpositional error.

(3) Except as otherwise provided in subsections (4) and (5), the filing office shall:

(a) Index an initial financing statement according to the name of the debtor and shall index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

(b) Index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(4) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index it:

(a) Under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

(b) To the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a mortgage of the real property described.

(5) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under s. 679.514(1) or an amendment filed under s. 679.514(2):

(a) Under the name of the assignor as grantor; and

(b) To the extent that the law of this state provides for indexing the assignment of a real property mortgage under the name of the assignee, under the name of the assignee.

(6) The filing office shall maintain a capability for:

(a) Retrieving a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

(b) Associating and retrieving with one another an initial financing statement and each filed record relating to the initial financing statement.

(7) The filing office may not remove a debtor's name from the index until 1 year after the effectiveness of a financing statement naming the debtor lapses under s. 679.515 with respect to all secured parties of record.

(8) Except as otherwise provided in subsection (9), the filing office shall perform the acts required by subsections (1) through (5) at the time and in the manner prescribed by any filing-office rule, but not later than 3 business days after the filing office receives the record in question, if practical.

(9) Subsections (1), (2), and (8) do not apply to a filing office described in s. 679.5011(1)(a).

679.520 Acceptance and refusal to accept record.—

(1) A filing office shall refuse to accept a record for filing for a reason set forth in s. 679.516(2) and may refuse to accept a record for filing only for a reason set forth in s. 679.516(2).

(2) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by any filing-office rule but, in the case of a filing office described in s. 679.5011(1)(b), in no event more than 3 business days after the filing office receives the record, if practical.

(3) A filed financing statement satisfying s. 679.5021(1) and (2) is effective, even if the filing office is required to refuse to accept it for filing under subsection (1). However, s. 679.338 applies to a filed financing statement providing information described in s. 679.516(2)(e) which is incorrect at the time the financing statement is filed.

(4) If a record communicated to a filing office provides information that relates to more than one debtor, this part applies as to each debtor separately.

679.521 Uniform form of written financing statement and amendment.—The Secretary of State shall develop or approve mandatory forms for use in filing under this chapter. Such forms must be in accord with the requirements of Florida law, including s. 201.22. The secretary may, if he or she finds that such forms meet these requirements, approve the use of a standard national form for this purpose.

679.522 Maintenance and destruction of records.—

(1) The filing office shall maintain a record of the information provided in a filed financing statement for at least 1 year after the effectiveness of the financing statement has lapsed under s. 679.515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number, or official records book and page number if a fixture filing, assigned to the initial financing statement to which the record relates.

(2) Except to the extent that chapter 119 governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection (1).

679.523 Information from filing office; sale or license of records.—

(1) If a person files a written record, the filing office shall make available, on the database, an image of the record showing the number assigned to the record pursuant to s. 679.519(1)(a) and the date of the filing of the record or, if requested, send to the person a separate printed acknowledgement indicating the debtor's name, the number assigned to the record pursuant to s. 679.519(1)(a), and the date of the filing of the record.

(2) If a person files a record other than a written record, the filing office described in s. 679.5011(l)(b) shall communicate to the person an image that provides:

(a) The information in the record;

(b) The number assigned to the record pursuant to s. 679.519(1)(a); and

(c) The date and time of the filing of the record.

(3) In complying with its duty under this chapter, the filing office described in s. 679.5011(1)(b) may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate or a record that can be admitted into evidence in the courts of the state without extrinsic evidence of its authenticity.

(4) The filing office described in s. 679.5011(1)(b) shall perform the acts required by subsections (1) and (2) at the time and in the manner

prescribed by any filing-office rule, but not later than 3 business days after the filing office receives the request, if practical.

679.524 Delay by filing office.—Delay by the filing office beyond a time limit prescribed by this part is excused if:

(1) The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and

(2) The filing office exercises reasonable diligence under the circumstances.

679.525 Processing fees.—

(1) Except as otherwise provided in subsection (3), the nonrefundable processing fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in s. 679.5021(3), is:

(a) For filing a financing statement, $25 for the first page, which shall include the cost of filing a termination statement for the financing statement;

(b) For filing an amendment, $12 for the first page;

(c) For indexing by additional debtor, secured party, or assignee, $3 per additional name indexed;

(d) For use of a nonapproved form, $5;

(e) For each additional facing page attached to a record, $3;

(f) For filing a financing statement communicated by an electronic filing process authorized by the filing office, $15 with no additional fees for multiple names or attached pages;

(g) For filing an amendment communicated by an electronic filing process authorized by the filing office, $5 with no additional fees for multiple names or attached pages;

(h) For a certified copy of a financing statement and any and all associated amendments, $30; and

(i) For a photocopy of a filed record, $1 per page.

(2) Except as otherwise provided in subsection (3), the fee for filing and indexing an initial financing statement of the kind described in s. 679.5021(3) is the amount specified in chapter 28.

(3) This section does not require a fee with respect to a mortgage that is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under s. 679.5021(3). However, the recording and satisfaction fees that otherwise would be applicable to the mortgage apply.

679.526 Filing-office rules.—The Department of State may adopt and publish rules to administer this chapter. The filing-office rules must be:

(1) Consistent with this chapter.

(2) Adopted and published in accordance with the Administrative Procedure Act.

679.527 Authority to delegate.—

(1) Except as otherwise provided in this section, the Secretary of State may delegate the duties of the filing office and filing officer under this chapter to a private filing agency qualified to transact business in this state which otherwise has satisfied all other requirements of law and has entered into an approved written contract with the Department of State. Upon the effective date of such contract, the private filing agency shall, subject to the review of the Secretary of State or his or her designee, fully and diligently perform and carry out the responsibilities of the filing office and filing officer under this chapter, except as proscribed in the contract or this chapter.

(2) Notwithstanding any contract with the private filing agency, the Secretary of State, or his or her designee who is an employee of the Department of State, shall retain the sole authority to conditionally accept and later reject a purportedly fraudulent financing statement as permitted under s. 679.515. The decision to reject shall be made within 3 business days after the financing statement is received by the filing office. However, the private filing agency may recommend to the Secretary of State or his or her designee action as to any purportedly fraudulent financing statement and shall send to the party submitting the financing statement immediately after the decision is made an authenticated record of any determination of conditional acceptance or rejection made by the Secretary of State or his or her designee. Further, notwithstanding any such contract, the Secretary of State or his or her designee also may review and reverse any decision by the private filing agency to reject a financing statement under this chapter.

(3) The Secretary of State shall immediately after the effective date of this act develop and issue a request for qualifications seeking qualified entities to perform the duties of the filing officer and filing office under this chapter which are delegable.

(a) The qualifications and any contract shall, at a minimum, require:

1. The creation and maintenance of a central filing, recording, retrieval, and response system that is capable of fully satisfying the filing officer and filing office requirements under this chapter.

2. Record maintenance in compliance with chapter 119.

3. Oversight by the Department of State, including compliance audits of the performance standards described in subsection (5).

4. Access by the public, including review at no charge through the Internet or such other substitute medium, of all financing statements maintained by the Department of State under chapter 679 existing as of the date of the enactment of this act, and of all financing statements filed after the effective date of this act, subject to any requirements or limitations of chapter 119 and this chapter.

5. Maintenance for at least 5 years of the type and amount of fees and procedures for the deposit of revenues, net of operating costs, prescribed by the Department of State as of the effective date of this act, consistent with chapter 15.

(4) Notwithstanding the requirements of chapter 287, the Secretary of State or his or her designee may determine and select the most qualified respondent to the request for qualifications as the private filing agency under this chapter.

(5) The Secretary of State or his or her designee shall develop performance standards to assure that the system to be used and actually used by the private filing agency is accurate, efficient, and complete and that the system satisfies the responsibilities of the filing office and filing officer under this chapter and meets the needs of various persons and entities using or affected by the filing system.

(6) Because of the unique role the filing office and filing officer have in administering and overseeing the system of filing, amending, terminating, and assigning financing statements, and the importance to commerce within this state of uninterrupted, consistent, and credible service to parties affected by the filing system, any contract between the Department of State and the private filing agency shall not be assignable without the express written consent of the Secretary of State, which consent may be withheld in his or her sole and absolute discretion.

(7) If:

(a) The private filing agency ceases, is unable, or fails to perform all of the duties required under this chapter required of the filing office and filing officer or as provided for in any contract, as determined by the Secretary of State in his or her sole discretion;

(b) An assignee for the benefit of creditor is appointed for the private filing agency or its assets or a receiver is appointed for the private filing agency or its assets other than by the Secretary of State;

(c) Bankruptcy or other insolvency proceedings are commenced by the private filing agency; or

(d) An involuntary bankruptcy case is commenced against the private filing agency and the case is not dismissed within 5 business days after the filing of the petition,

the Secretary of State shall, immediately or as soon as practicable thereafter, assume the duties of the filing office and filing officer under this chapter; appoint a receiver for the private filing agency to fulfill the duties of the filing office and filing officer under this chapter and any existing contract; or redelegate such duties to a new private filing agency that meets the requirements of this section and enters into a new approved contract with the Secretary of State. Upon any assumption, appointment, or redelegation by the Secretary of State under this subsection, any rights of the private filing agency pertaining to the contract or otherwise with respect to this chapter shall immediately terminate.

(8) All financing statements, logs, or indices evidencing information regarding the filing, amendment, continuation, termination, or assignment of financing statements, and all other records pertaining to financing statements received or sent by the private filing agency, regardless of the form in which they are maintained, shall be and remain the property of this state, and upon demand shall be immediately turned over to the Secretary of State upon the occurrence of any event described in paragraph (7)(a), paragraph (7)(b), paragraph (7)(c), or paragraph (7)(d). The Secretary of State shall be entitled to injunctive relief on an emergency basis if the private filing agency fails to turn over any of such records.

Section 7. Part VI of chapter 679, Florida Statutes, consisting of sections 679.601, 679.602, 679.603, 679.604, 679.605, 679.606, 679.607, 679.608, 679.609, 679.610, 679.611, 679.612, 679.613, 679.614, 679.615, 679.616, 679.617, 679.618, 679.619, 679.620, 679.621, 679.622, 679.623, 679.624, 679.625, 679.626, 679.627, and 679.628, Florida Statutes, is created to read:

PART VI
DEFAULT

679.601 Rights after default; judicial enforcement; consignor or buyer of accounts, chattel paper, payment intangibles, or promissory notes.—

(1) After default, a secured party has the rights provided in this part and, except as otherwise provided in s. 679.602, those provided by agreement of the parties. A secured party:

(a) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(b) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(2) A secured party in possession of collateral or control of collateral under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071 has the rights and duties provided in s. 679.2071.

(3) The rights under subsections (1) and (2) are cumulative and may be exercised simultaneously.

(4) Except as otherwise provided in subsection (7) and s. 679.605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(5) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(a) The date of perfection of the security interest or agricultural lien in the collateral;

(b) The date of filing a financing statement covering the collateral; or

(c) Any date specified in a statute under which the agricultural lien was created.

(6) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this chapter.

(7) Except as otherwise provided in s. 679.607(3), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

679.602 Waiver and variance of rights and duties.—Except as otherwise provided in s. 679.624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

(1) Section 679.2071(2)(d)3., which deals with use and operation of the collateral by the secured party;

(2) Section 679.210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account;

(3) Section 679.607(3), which deals with collection and enforcement of collateral;

(4) Sections 679.608(1) and 679.615(3) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;

(5) Sections 679.608(1) and 679.615(4) to the extent that they require accounting for or payment of surplus proceeds of collateral;

(6) Section 679.609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;

(7) Sections 679.610(2), 679.611, 679.613, and 679.614, which deal with disposition of collateral;

(8) Section 679.615(6), which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor;

(9) Section 679.616, which deals with explanation of the calculation of a surplus or deficiency;

(10) Sections 679.620, 679.621, and 679.622, which deal with acceptance of collateral in satisfaction of obligation;

(11) Section 679.623, which deals with redemption of collateral;

(12) Section 679.624, which deals with permissible waivers; and

(13) Sections 679.625 and 679.626, which deal with the secured party's liability for failure to comply with this article.

679.603 Agreement on standards concerning rights and duties.—

(1) The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in s. 679.602 if the standards are not manifestly unreasonable.

(2) Subsection (1) does not apply to the duty under s. 679.609 to refrain from breaching the peace.

679.604 Procedure if security agreement covers real property or fixtures.—

(1) If a security agreement covers both personal and real property, a secured party may proceed:

(a) Under this part as to the personal property without prejudicing any rights with respect to the real property; or

(b) As to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this part do not apply.

(2) Subject to subsection (3), if a security agreement covers goods that are or become fixtures, a secured party may proceed:

(a) Under this part; or

(b) In accordance with the rights with respect to real property, in which case the other provisions of this part do not apply.

(3) Subject to the other provisions of this part, if a secured party holding a security interest in fixtures has priority over all owners and encumbrancers of the real property, the secured party, after default, may remove the collateral from the real property. The secured party shall give reasonable notification of its intent to remove the collateral to all persons entitled to reimbursement under subsection (4).

(4) A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse. This subsection does not prohibit a secured party and the person entitled to reimbursement from entering into an authenticated record providing for the removal of fixtures and reimbursement for any damage caused thereby.

679.605 Unknown debtor or secondary obligor.—A secured party does not owe a duty based on its status as secured party:

(1) To a person who is a debtor or obligor, unless the secured party knows:

(a) That the person is a debtor or obligor;

(b) The identity of the person; and

(c) How to communicate with the person; or

(2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(a) That the person is a debtor; and

(b) The identity of the person.

679.606 Time of default for agricultural lien.—For purposes of this part, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

679.607 Collection and enforcement by secured party.—

(1) If so agreed, and in any event after default, a secured party:

(a) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(b) May take any proceeds to which the secured party is entitled under s. 679.3151;

(c) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(d) If it holds a security interest in a deposit account perfected by control under s. 679.1041(1)(a), may apply the balance of the deposit account to the obligation secured by the deposit account; and

(e) If it holds a security interest in a deposit account perfected by control under s. 679.1041(1)(b) or (c), may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(2) If necessary to enable a secured party to exercise under paragraph (1)(c) the right of a debtor to enforce a mortgage nonjudicially outside this state, the secured party may record in the office in which a record of the mortgage is recorded:

(a) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(b) The secured party's sworn affidavit in recordable form stating that:

1. A default has occurred; and

2. The secured party is entitled to enforce the mortgage nonjudicially outside this state.

(3) A secured party shall proceed in a commercially reasonable manner if the secured party:

(a) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(b) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(4) A secured party may deduct from the collections made pursuant to subsection (3) reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(5) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

(6) Nothing in subsection (2) is intended to create a right of nonjudicial foreclosure in this state.

679.608 Application of proceeds of collection or enforcement; liability for deficiency and right to surplus.—

(1) If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(a) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under s. 679.607 in the following order to:

1. The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

2. The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

3. The satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time and agree to indemnify the secured party on reasonable terms acceptable to the secured party for damages, including reasonable attorney's fees and costs, incurred or suffered by the secured party if the subordinate holder did not have the right to receive the amounts to be paid to it. Unless the holder complies, the secured party need not comply with the holder's demand under subparagraph (a)3.

(c) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under s. 679.607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(2) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

(3) If the secured party in good faith cannot determine the validity, extent, or priority of a subordinate security interest or other lien or there

are conflicting claims of subordinate interests or liens, the secured party may commence an interpleader action with respect to remaining proceeds in excess of $2,500 in the circuit or county court, as applicable based upon the amount to be deposited, where the collateral was located or collected or in the county where the debtor has its chief executive office or principal residence in this state, as applicable. If authorized in an authenticated record, the interpleading secured party is entitled to be paid from the remaining proceeds the actual costs of the filing fee and an attorney's fee in the amount of $250 incurred in connection with filing the interpleader action and obtaining an order approving the interpleader of funds. The debtor in a consumer transaction may not be assessed for the attorney's fees and costs incurred in the interpleader action by the holders of subordinate security interests or other liens based upon disputes among said holders, and a debtor in a transaction other than a consumer transaction may only recover such fees and costs to the extent provided for in an authenticated record. If authorized in an authenticated record, the court in the interpleader action may award reasonable attorney's fees and costs to the prevailing party in a dispute between the debtor and a holder of a security interest or lien which claims an interest in the remaining interplead proceeds, but only if the debtor challenges the validity, priority, or extent of said security interest or lien. Except as provided in this subsection, a debtor may not be assessed attorney's fees and costs incurred by any party in an interpleader action commenced under this section.

679.609 Secured party's right to take possession after default.—

(1) After default, a secured party:

(a) May take possession of the collateral; and

(b) Without removal, may render equipment unusable and dispose of collateral on a debtor's premises under s. 679.610.

(2) A secured party may proceed under subsection (1):

(a) Pursuant to judicial process; or

(b) Without judicial process, if it proceeds without breach of the peace.

(3) If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

679.610 Disposition of collateral after default.—

(1) After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(2) Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) A secured party may purchase collateral:

(a) At a public disposition; or

(b) At a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(4) A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(5) A secured party may disclaim or modify warranties under subsection (4):

(a) In a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(b) By communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(6) A record is sufficient to disclaim warranties under subsection (5) if it indicates that "there is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

679.611 Notification before disposition of collateral.—

(1) In this section, the term "notification date" means the earlier of the date on which:

(a) A secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

(b) The debtor and any secondary obligor waive the right to notification.

(2) Except as otherwise provided in subsection (4), a secured party that disposes of collateral under s. 679.610 shall send to the persons specified in subsection (3) a reasonable authenticated notification of disposition.

(3) To comply with subsection (2), the secured party shall send an authenticated notification of disposition to:

(a) The debtor;

(b) Any secondary obligor; and

(c) If the collateral is other than consumer goods:

1. Any other person from whom the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

2. Any other secured party or lienholder that, 10 days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

a. Identified the collateral;

b. Was indexed under the debtor's name as of that date; and

c. Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

3. Any other secured party that, 10 days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in s. 679.3111(1).

(4) Subsection (2) does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(5) A secured party complies with the requirement for notification prescribed by subparagraph (3)(c)2. if:

(a) Not later than 20 days or earlier than 30 days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subparagraph (3)(c)2.; and

(b) Before the notification date, the secured party:

1. Did not receive a response to the request for information; or

2. Received a response to the request for information and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

(6) For purposes of subsection (3), the secured party may send the authenticated notification as follows:

(a) If the collateral is other than consumer goods, to the debtor at the address in the financing statement, unless the secured party has received an authenticated record from the debtor notifying the secured party of a

different address for such notification purposes or the secured party has actual knowledge of the address of the debtor's chief executive office or principal residence, as applicable, at the time the notification is sent;

(b) If the collateral is other than consumer goods, to any secondary obligor at the address, if any, in the authenticated agreement, unless the secured party has received an authenticated record from the secondary obligor notifying the secured party of a different address for such notification purposes or the secured party has actual knowledge of the address of the secondary obligor's chief executive office or principal residence, as applicable, at the time the notification is sent; and

(c) If the collateral is other than consumer goods:

1. To the person described in subparagraph (3)(c)1., at the address stated in the notification;

2. To the person described in subparagraph (3)(c)2., at the address stated in the financing statement;

3. To the person described in subparagraph (3)(c)3., at the address stated in the official records of the recording or registration agency.

679.612 Timeliness of notification before disposition of collateral.—

(1) Except as otherwise provided in subsection (2), whether a notification is sent within a reasonable time is a question of fact.

(2) A notification of disposition sent after default and 10 days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

679.613 Contents and form of notification before disposition of collateral; general.—Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(a) Describes the debtor and the secured party;

(b) Describes the collateral that is the subject of the intended disposition;

(c) States the method of intended disposition;

(d) States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

(e) States the time and place of a public disposition or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in subsection (1) are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in subsection (1) are sufficient, even if the notification includes:

(a) Information not specified by that paragraph; or

(b) Minor errors that are not seriously misleading.

(4) A particular phrasing of the notification is not required.

(5) The following form of notification and the form appearing in s. 679.614(3), when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To:. . . . (Name of debtor, obligor, or other person to which the notification is sent). . . .

From:. . . . (Name, address, and telephone number of secured party). . . .

Name of Debtor(s):. . . . (Include only if debtor(s) are not an addressee). . . .

[For a public disposition:]

We will sell [or lease or license, as applicable] the . . . . (describe collateral). . . . to the highest qualified bidder in public as follows:

Day and Date:

Time:

Place:

[For a private disposition:]

We will sell [or lease or license, as applicable] the . . . . (describe collateral). . . . privately sometime after . . . . (day and date). . . . .

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell [or lease or license, as applicable] for a charge of $_____. You may request an accounting by calling us at . . . . (telephone number). . . . .

679.614 Contents and form of notification before disposition of collateral; consumer-goods transaction.—In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(a) The information specified in s. 679.613(1);

(b) A description of any liability for a deficiency of the person to whom the notification is sent;

(c) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under s. 679.623 is available; and

(d) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed, provides sufficient information:

. . . . (Name and address of secured party). . . .

. . . . (Date). . . .

NOTICE OF OUR PLAN TO SELL PROPERTY

. . . . (Name and address of any obligor who is also a debtor). . . .

Subject:. . . . (Identification of Transaction). . . .

We have your . . . . (describe collateral). . . . , because you broke promises in our agreement.

[For a public disposition:]

We will sell . . . . (describe collateral). . . . at public sale. A sale could include a lease or license. The sale will be held as follows:

Date:

Time:

Place:

You may attend the sale and bring bidders if you want.

[For a private disposition:]

We will sell . . . . (describe collateral). . . . at private sale sometime after . . . . (date). . . . . A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you . . . . (will or will not, as applicable). . . . still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our

expenses. To learn the exact amount you must pay, call us at . . . . (telephone number). . . . .

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at . . . . (telephone number). . . . or write us at . . . . (secured party's address). . . . and request a written explanation. We will charge you $_____ for the explanation if we sent you another written explanation of the amount you owe us within the last 6 months.

If you need more information about the sale, call us at . . . . (telephone number). . . . or write us at . . . . (secured party's address). . . . .

We are sending this notice to the following other people who have an interest in . . . . (describe collateral). . . . or who owe money under your agreement:

. . . . (Names of all other debtors and obligors, if any). . . .

(4) A notification in the form of subsection (3) is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of subsection (3) is sufficient, even if it includes errors in information not required by subsection (1), unless the error is misleading with respect to rights arising under this chapter.

(6) If a notification under this section is not in the form of subsection (3), law other than this chapter determines the effect of including information not required by subsection (1).

679.615 Application of proceeds of disposition; liability for deficiency and right to surplus.—

(1) A secured party shall apply or pay over for application the cash proceeds of disposition under s. 679.610 in the following order to:

(a) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(b) The satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(c) The satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

1. The secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

2. In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(d) A secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time after receipt of the request and agree to indemnify the secured party on reasonable terms acceptable to the secured party for damages, including reasonable attorney's fees and costs, incurred or suffered by the secured party if the subordinate holder did not have the right to receive the amounts to be paid to it. Unless the holder complies, the secured party need not comply with the holder's demand under paragraph (1)(c).

(3) A secured party need not apply or pay over for application noncash proceeds of disposition under s. 679.610 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (1) and permitted by subsection (3):

(a) Unless paragraph (1)(d) requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(b) The obligor is liable for any deficiency.

(5) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(a) The debtor is not entitled to any surplus; and

(b) The obligor is not liable for any deficiency.

(6) The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(a) The transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(b) The amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(7) A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(a) Takes the cash proceeds free of the security interest or other lien;

(b) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(c) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

(8) If the secured party in good faith cannot determine the validity, extent, or priority of a subordinate security interest or other lien or there are conflicting claims of subordinate interests or liens, the secured party may commence an interpleader action with respect to remaining proceeds in excess of $2,500 in the circuit or county court, as applicable based upon the amount to be deposited, where the collateral was located or collected or in the county where the debtor's chief executive office or principal residence is located in this state, as applicable. The interpleading secured party and any other parties in the interpleader action shall only be entitled to recover attorney's fees and costs as permitted in s. 679.608(3).

679.616 Explanation of calculation of surplus or deficiency.—

(1) In this section, the term:

(a) "Explanation" means a writing that:

1. States the amount of the surplus or deficiency;

2. Provides an explanation in accordance with subsection (3) of how the secured party calculated the surplus or deficiency;

3. States, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and

4. Provides a telephone number or mailing address from which additional information concerning the transaction is available.

(b) "Request" means a record:

1. Authenticated by a debtor or consumer obligor;

2. Requesting that the recipient provide an explanation; and

3. Sent after disposition of the collateral under s. 679.610.

(2) In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under s. 679.615, the secured party shall:

(a) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

1. Before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency; and

2. Within 14 days after receipt of a request; or

(b) In the case of a consumer obligor who is liable for a deficiency, within 14 days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(3) To comply with subparagraph (1)(a)2., a writing must provide the following information in the following order:

(a) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

1. If the secured party takes or receives possession of the collateral after default, not more than 35 days before the secured party takes or receives possession; or

2. If the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than 35 days before the disposition;

(b) The amount of proceeds of the disposition;

(c) The aggregate amount of the obligations after deducting the amount of proceeds;

(d) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(e) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in paragraph (a); and

(f) The amount of the surplus or deficiency.

(4) A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (1) is sufficient, even if it includes minor errors that are not seriously misleading.

(5) A debtor or consumer obligor is entitled without charge to one response to a request under this section during any 6-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to paragraph (2)(a). The secured party may require payment of a charge not exceeding $25 for each additional response.

679.617 Rights of transferee of collateral.—

(1) A secured party's disposition of collateral after default:

(a) Transfers to a transferee for value all of the debtor's rights in the collateral;

(b) Discharges the security interest under which the disposition is made; and

(c) Discharges any subordinate security interest or other subordinate lien other than liens created under statutes providing for liens, if any, that are not to be discharged.

(2) A transferee that acts in good faith takes free of the rights and interests described in subsection (1), even if the secured party fails to comply with this chapter or the requirements of any judicial proceeding.

(3) If a transferee does not take free of the rights and interests described in subsection (1), the transferee takes the collateral subject to:

(a) The debtor's rights in the collateral;

(b) The security interest or agricultural lien under which the disposition is made; and

(c) Any other security interest or other lien.

679.618 Rights and duties of certain secondary obligors.—

(1) A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

(a) Receives an assignment of a secured obligation from the secured party;

(b) Receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or

(c) Is subrogated to the rights of a secured party with respect to collateral.

(2) An assignment, transfer, or subrogation described in subsection (1):

(a) Is not a disposition of collateral under s. 679.610; and

(b) Relieves the secured party of further duties under this chapter.

679.619 Transfer of record or legal title.—

(1) In this section, the term "transfer statement" means a record authenticated by a secured party stating:

(a) That the debtor has defaulted in connection with an obligation secured by specified collateral;

(b) That the secured party has exercised its post-default remedies with respect to the collateral;

(c) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(d) The name and mailing address of the secured party, debtor, and transferee.

(2) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(a) Accept the transfer statement;

(b) Promptly amend its records to reflect the transfer; and

(c) If applicable, issue a new appropriate certificate of title in the name of the transferee.

(3) A transfer of the record or legal title to collateral to a secured party under subsection (2) or otherwise is not of itself a disposition of collateral under this chapter and does not of itself relieve the secured party of its duties under this chapter.

679.620 Acceptance of collateral in full or partial satisfaction of obligation; compulsory dispostion of collateral.—

(1) Except as otherwise provided in subsection (7), a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(a) The debtor consents to the acceptance under subsection (3);

(b) The secured party does not receive, within the time set forth in subsection (4), a notification of objection to the proposal authenticated by:

1. A person to whom the secured party was required to send a proposal under s. 679.621; or

2. Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(c) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(d) Subsection (5) does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to s. 679.624.

(2) A purported or apparent acceptance of collateral under this section is ineffective unless:

(a) The secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(b) The conditions of subsection (1) are met.

(3) For purposes of this section:

(a) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

(b) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

1. Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

2. In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures, and, in a consumer transaction, provides notice that the proposal will be deemed accepted if it is not objected to by an authenticated notice within 30 days after the date the proposal is sent by the secured party; and

3. Does not receive a notification of objection authenticated by the debtor within 30 days after the proposal is sent.

(4) To be effective under paragraph (1)(b), a notification of objection must be received by the secured party:

(a) In the case of a person to whom the proposal was sent pursuant to s. 679.621, within 20 days after notification was sent to that person; and

(b) In other cases:

1. Within 20 days after the last notification was sent pursuant to s. 679.621; or

2. If a notification was not sent, before the debtor consents to the acceptance under subsection (3).

(5) A secured party that has taken possession of collateral shall dispose of the collateral pursuant to s. 679.610 within the time specified in subsection (6) if:

(a) Sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(b) Sixty percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(6) To comply with subsection (5), the secured party shall dispose of the collateral:

(a) Within 90 days after taking possession; or

(b) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(7) In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

679.621 Notification of proposal to accept collateral.—

(1) A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(a) Any person from whom the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral;

(b) Any other secured party or lienholder that, 10 days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

1. Identified the collateral;

2. Was indexed under the debtor's name as of that date; and

3. Was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(c) Any other secured party that, 10 days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in s. 679.3111(1).

(2) A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (1).

(3) A secured party shall send its proposal under s. 679.621(1) or (2) to the affected party at the address prescribed in s. 679.611(6).

679.622 Effect of acceptance of collateral.—

(1) A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

(a) Discharges the obligation to the extent consented to by the debtor;

(b) Transfers to the secured party all of a debtor's rights in the collateral;

(c) Discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and

(d) Terminates any other subordinate interest.

(2) A subordinate interest is discharged or terminated under subsection (1), even if the secured party fails to comply with this chapter.

679.623 Right to redeem collateral.—

(1) A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

(2) To redeem collateral, a person shall tender:

(a) Fulfillment of all obligations secured by the collateral; and

(b) The reasonable expenses and attorney's fees described in s. 679.615(1)(a).

(3) A redemption may occur at any time before a secured party:

(a) Has collected collateral under s. 679.607;

(b) Has disposed of collateral or entered into a contract for its disposition under s. 679.610; or

(c) Has accepted collateral in full or partial satisfaction of the obligation it secures under s. 679.622.

679.624 Waiver.—

(1) A debtor or secondary obligor may waive the right to notification of disposition of collateral under s. 679.611 only by an agreement to that effect entered into and authenticated after default.

(2) A debtor may waive the right to require disposition of collateral under s. 679.620(5) only by an agreement to that effect entered into and authenticated after default.

(3) Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under s. 679.623 only by an agreement to that effect entered into and authenticated after default.

679.625 Remedies for failure to comply with article.—

(1) If it is established that a secured party is not proceeding in accordance with this chapter, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions. This subsection shall not preclude a debtor other than a consumer and a secured party, or two or more secured parties in other than a consumer transaction, from agreeing in an authenticated record that the debtor or secured party must first provide to the alleged offending secured party notice of a violation of this chapter and opportunity to cure before commencing any legal proceeding under this section.

(2) Subject to subsections (3), (4), and (6), a person is liable for damages in the amount of any loss caused by a failure to comply with this chapter, including damages suffered by the debtor resulting from the debtor's inability to obtain, or increased costs of alternative financing, but not including consequential, special, or penal damages, unless the conduct giving rise to the failure constitutes an independent claim under the laws of this state other than this chapter and then only to the extent otherwise recoverable under law.

(3) Except as otherwise provided in s. 671.628:

(a) A person who, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (2) for the person's loss; and

(b) If the collateral is consumer goods, a person who was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event an amount not less than the credit service charge plus 10 percent of the principal amount of the obligation or the time-price differential plus 10 percent of the cash price.

(4) A debtor whose deficiency is eliminated under s. 679.626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under s. 679.626 may not otherwise recover under subsection (2) for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(5) In lieu of damages recoverable under subsection (2), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover $500 in each case from a person who:

(a) Fails to comply with s. 679.2081;

(b) Fails to comply with s. 679.209;

(c) Files a record that the person is not entitled to file under s. 679.509(1);

(d) Fails to cause the secured party of record to file or send a termination statement as required by s. 679.513(1) or (3) after receipt of an authenticated record notifying the person of such noncompliance;

(e) Fails to comply with s. 679.616(2)(a) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or

(f) Fails to comply with s. 679.616(2)(b) with respect to a consumer transaction, and with respect to a transaction other than a consumer transaction, after receipt of an authenticated record notifying the person of such noncompliance.

(6) A debtor or consumer obligor may recover damages under subsection (2) and, in addition, $500 in each case from a person who, without reasonable cause, fails to comply with a request under s. 679.210. A recipient of a request under s. 679.210 which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(7) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under S. 679.210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person who is reasonably misled by the failure.

679.626 Action in which deficiency or surplus is in issue.—In an action arising from a transaction in which the amount of a deficiency or surplus is in issue, the following rules apply:

(1) A secured party need not prove compliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(2) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this part.

(3) Except as otherwise provided in s. 679.628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, reasonable expenses, and, to the extent provided for by agreement and not prohibited by law, attorney's fees exceeds the greater of:

(a) The proceeds of the collection, enforcement, disposition, or acceptance; or

(b) The amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(4) For purposes of paragraph (3)(b), the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the secured party proves that the amount is less than that sum.

(5) If a deficiency or surplus is calculated under s. 679.615(6), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

679.627 Determination of whether conduct was commercially reasonable.—

(1) The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(2) A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

(a) In the usual manner on any recognized market;

(b) At the price current in any recognized market at the time of the disposition; or

(c) Otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(3) A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

(a) In a judicial proceeding;

(b) By a bona fide creditors' committee;

(c) By a representative of creditors; or

(d) By an assignee for the benefit of creditors.

(4) Approval under subsection (3) need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

679.628 Nonliability and limitation on liability of secured party; liability of secondary obligor.—

(1) Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(a) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this chapter; and

(b) The secured party's failure to comply with this chapter does not affect the liability of the person for a deficiency.

(2) A secured party is not liable because of its status as a secured party:

(a) To a person who is a debtor or obligor, unless the secured party knows:

1. That the person is a debtor or obligor;

2. The identity of the person; and

3. How to communicate with the person; or

(b) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

1. That the person is a debtor; and

2. The identity of the person.

(3) A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(a) A debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(b) an obligor's representation concerning the purpose for which a secured obligation was incurred.

(4) A secured party is not liable to any person under s. 679.625(3)(b) for its failure to comply with s. 679.616.

(5) A secured party is not liable under s. 679.625(3)(b) more than once with respect to any one secured obligation.

Section 8. Part VII of chapter 679, Florida Statutes, consisting of sections 679.701, 679.702, 679.703, 679.704, 679.705, 679.706, 679.707, 679.708, and 679.709, Florida Statutes, is created to read:

PART VII
TRANSITION

679.701 Effective date.—This act takes effect July 1, 2001.

679.702 Savings clause.—

(1) Except as otherwise provided in this part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this act takes effect.

(2) Except as otherwise provided in subsection (3) and ss. 679.703-679.709:

(a) Transactions and liens that were not governed by chapter 679, Florida Statutes 2000, were validly entered into or created before this act takes effect, and would be subject to this act if they had been entered into or created after this act takes effect, and the rights, duties, and interests flowing from those transactions and liens remain valid after this act takes effect; and

(b) The transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by this act or by the law that otherwise would apply if this act had not taken effect.

(3) This act does not affect an action, case, or proceeding commenced before this act takes effect.

679.703 Security interest perfected before effective date.—

(1) A security interest that is enforceable immediately before this act takes effect and would have priority over the rights of a person who becomes a lien creditor at that time is a perfected security interest under this act if, when this act takes effect, the applicable requirements for enforceability and perfection under this act are satisfied without further action.

(2) Except as otherwise provided in s. 679.705, if, immediately before this act takes effect, a security interest is enforceable and would have priority over the rights of a person who becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under this act are not satisfied when this act takes effect, the security interest:

(a) Is a perfected security interest for 1 year after this act takes effect;

(b) Remains enforceable thereafter only if the security interest becomes enforceable under s. 679.203 before the year expires; and

(c) Remains perfected thereafter only if the applicable requirements for perfection under this act are satisfied before the year expires.

679.704 Security interest unperfected before effective date.—A security interest that is enforceable immediately before this act takes effect but that would be subordinate to the rights of a person who becomes a lien creditor at that time:

(1) Remains an enforceable security interest for 1 year after this act takes effect;

(2) Remains enforceable thereafter if the security interest becomes enforceable under s. 679.203 when this act takes effect or within 1 year thereafter; and

(3) Becomes perfected:

(a) Without further action when this act takes effect if the applicable requirements for perfection under this act are satisfied before or at that time; or

(b) When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

679.705 Effectiveness of action taken before effective date.—

(1) If action, other than the filing of a financing statement, is taken before this act takes effect and the action would have resulted in priority of a security interest over the rights of a person who becomes a lien creditor had the security interest become enforceable before this act takes effect, the action is effective to perfect a security interest that attaches under this act within 1 year after this act takes effect. An attached security interest becomes unperfected 1 year after this act takes effect unless the security interest becomes a perfected security interest under this act before the expiration of that period.

(2) The filing of a financing statement before this act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this act.

(3) This act does not render ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in s. 679.103, Florida Statutes 2000. However, except as otherwise provided in subsections (4) and (5) and s. 679.706, the financing statement ceases to be effective at the earlier of:

(a) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or

(b) June 30, 2006.

(4) The filing of a continuation statement after this act takes effect does not continue the effectiveness of the financing statement filed before

this act takes effect. However, upon the timely filing of a continuation statement after this act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in part III, the effectiveness of a financing statement filed in the same office in that jurisdiction before this act takes effect continues for the period provided by the law of that jurisdiction.

(5) Paragraph (3)(b) applies to a financing statement that, before this act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in s. 679.103, Florida Statutes 2000, only to the extent that part III provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(6) A financing statement that includes a financing statement filed before this act takes effect and a continuation statement filed after this act takes effect is effective only to the extent that it satisfies the requirements of part V for an initial financing statement.

679.706 When initial financing statement suffices to continue effectiveness of financing statement.—

(1) The filing of an initial financing statement in the office specified in s. 679.5011 continues the effectiveness of a financing statement filed before this act takes effect if:

(a) The filing of an initial financing statement in that office would be effective to perfect a security interest under this act;

(b) The pre-effective date financing statement was filed in an office in another state or another office in this state; and

(c) The initial financing statement satisfies subsection (3).

(2) The filing of an initial financing statement under subsection (1) continues the effectiveness of the pre-effective date financing statement:

(a) If the initial financing statement is filed before this act takes effect, for the period provided in s. 679.403, Florida Statutes 2000, with respect to a financing statement; and

(b) If the initial financing statement is filed after this act takes effect, for the period provided in s. 679.515 with respect to an initial financing statement.

(3) To be effective for purposes of subsection (1), an initial financing statement must:

(a) Satisfy the requirements of part V for an initial financing statement;

(b) Identify the pre-effective date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(c) Indicate that the pre-effective date financing statement remains effective.

679.707 Amendment or pre-effective date financing statement.—

(1) In this section, the term "pre-effective date financing statement" means a financing statement filed before this act takes effect.

(2) After this act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in a pre-effective date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in part III. However, the effectiveness of a pre-effective date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(3) Except as otherwise provided in subsection (4), if the law of this state governs perfection of a security interest, the information in a pre-effective date financing statement may be amended after this act takes effect only if:

(a) The pre-effective date financing statement and an amendment are filed in the office specified in s. 679.5011;

(b) An amendment is filed in the office specified in s. 679.5011 concurrently with, or after the filing in that office of, an initial financing statement that satisfies s. 671.706(3); or

(c) An initial financing statement that provides the information as amended and satisfies s. 679.706(3) is filed in the office specified in s. 679.5011.

(4) If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective date financing statement may be continued only under s. 679.705(4) and (6) or s. 679.706.

(5) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective date financing statement filed in this state may be terminated after this act takes effect by filing a termination statement in the office in which the pre-effective date financing statement is filed, unless an initial financing statement that satisfies s. 679.706(3) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in part III as the office in which to file a financing statement.

679.708 Persons entitled to file initial financing statement or continuation statement.—A person may file an initial financing statement or a continuation statement under this part if:

(1) The secured party of record authorizes the filing; and

(2) The filing is necessary under this part:

(a) To continue the effectiveness of a financing statement filed before this act takes effect; or

(b) To perfect or continue the perfection of a security interest.

679.709 Priority.—

(1) This act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this act takes effect, chapter 679, Florida Statutes 2000, determines priority.

(2) For purposes of s. 679.322(1), the priority of a security interest that becomes enforceable under s. 679.2031 of this act dates from the time this act takes effect if the security interest is perfected under this act by the filing of a financing statement before this act takes effect which would not have been effective to perfect the security interest under chapter 679, Florida Statutes 2000. This subsection does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement.

Section 9. Subsection (2) of section 671.105, Florida Statutes, is amended to read:

671.105 Territorial application of the code; parties' power to choose applicable law.—

(2) When one of the following provisions of this code specifies the applicable law, that provision governs; and a contrary agreement is effective only to the extent permitted by the law (including the conflict-of-laws rules) so specified:

(a) Governing law in the chapter on funds transfers. (s. 670.507)

(b) Rights of sellers' creditors against sold goods. (s. 672.402)

(c) Applicability of the chapter on bank deposits and collections. (s. 674.102)

(d) Applicability of the chapter on letters of credit. (s. 675.116)

(e) Applicability of the chapter on investment securities. (s. 678.1101)

(f) *Law governing* perfection*, the effect* ~~provisions~~ of *perfection or nonperfection, and* the *priority of security interests and agricultural liens* ~~chapter on secured transactions~~. *(ss. 679.3011-679.3071)* ~~(s. 679.103)~~

(g) Applicability of the chapter on leases. (ss. 680.1051 and 680.1061)

Section 10. Subsections (9), (32), and (37) of section 671.201, Florida Statutes, are amended to read:

671.201 General definitions.—Subject to additional definitions contained in the subsequent chapters of this code which are applicable to specific chapters or parts thereof, and unless the context otherwise requires, in this code:

(9) "Buyer in ordinary course of business" means a person who *buys goods* in good faith ~~and~~ without knowledge that the sale *violates* ~~to him or her is in violation of~~ the ~~ownership~~ rights ~~or security interest~~ of *another person* ~~a third party~~ in the goods*, and* ~~buys~~ in *the* ordinary course from a person*, other than a pawnbroker,* in the business of selling goods of that kind ~~but does not include a pawnbroker~~. *A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person who sells oil, gas, or other minerals at the wellhead or minehead is a person* ~~All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons~~ in the business of selling goods of that kind. *A buyer in the ordinary course of business* ~~"Buying"~~ may *buy* ~~be~~ for cash*,* ~~or~~ by exchange of other property*,* or on secured or unsecured credit and *may acquire* ~~includes receiving~~ goods or documents of title under a preexisting contract for sale ~~but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt~~. *Only a buyer who takes possession of the goods or has a right to recover the goods from the seller under chapter 672 may be a buyer in the ordinary course of business. A person who acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in the ordinary course of business.*

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, *security interest,* issue or reissue, gift or any other voluntary transaction creating an interest in property.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. ~~The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (s. 672.401) is limited in effect to a reservation of a security interest.~~ The term also includes any interest of *a consignor and* a buyer of accounts*,* ~~or~~ chattel paper*, a payment intangible, or a promissory note in a transaction* which is subject to chapter 679. The special property interest of a buyer of goods on identification of those goods to a contract for sale under s. 672.401 is not a security interest, but a buyer may also acquire a security interest by complying with chapter 679. *Except as otherwise provided in s. 672.505, the right of a seller or lessor of goods under chapter 672 or chapter 680 to retain or acquire possession of the goods is not a security interest, but a seller or lessor may also acquire a security interest by complying with chapter 679. The retention or reservation of title by a seller of goods, notwithstanding shipment or delivery to the buyer (s. 672.401), is limited in effect to a reservation of a security interest.* ~~Unless a consignment is intended as security, reservation of title thereunder is not a security interest, but a consignment is in any event subject to the provisions on consignment sales (s. 672.326).~~ Whether a transaction creates a lease or security interest is determined by the facts of each case; however:

(a) A transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and;

1. The original term of the lease is equal to or greater than the remaining economic life of the goods;

2. The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

3. The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement; or

4. The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(b) A transaction does not create a security interest merely because it provides that:

1. The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

2. The lessee assumes the risk of loss of the goods or agrees to pay taxes; insurance; filing, recording, or registration fees; or service or maintenance costs with respect to the goods;

3. The lessee has an option to renew the lease or to become the owner of the goods;

4. The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

5. The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(c) For purposes of this subsection:

1. Additional consideration is not nominal if, when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed or if, when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised.

2. "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into.

3. "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

Section 11. Subsection (3) of section 672.103, Florida Statutes, is amended to read:

672.103 Definitions and index of definitions.—

(3) The following definitions in other chapters apply to this chapter:

"Check," s. 673.1041.

"Consignee," s. 677.102.

"Consignor," s. 677.102.

"Consumer goods," s. *679.1021* ~~679.109~~.

"Dishonor," s. 673.5021.

"Draft," s. 673.1041.

Section 12. Section 672.210, Florida Statutes, is amended to read:

672.210 Delegation of performance; assignment of rights.—

(1) A party may perform her or his duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having her or his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) *Except as otherwise provided in s. 679.4061,* unless otherwise agreed all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on her or him by her or his contract, or impair materially her or his chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of her or his entire obligation can be assigned despite agreement otherwise.

(3) The creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but the seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer. A court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.

(4)~~(3)~~ Unless the circumstances indicate the contrary a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

(5)~~(4)~~ An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by her or him to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

(6)~~(5)~~ The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to her or his rights against the assignor demand assurances from the assignee (s. 672.609).

Section 13. Section 672.326, Florida Statutes, is amended to read:

672.326 Sale on approval and sale or return; ~~consignment sales and~~ rights of creditors.—

(1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is:

(a) A "sale on approval" if the goods are delivered primarily for use, and

(b) A "sale or return" if the goods are delivered primarily for resale.

(2) ~~Except as provided in subsection (3),~~ Goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

~~(3) Where goods are delivered to a person for sale and such person maintains a place of business at which she or he deals in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum." However, this subsection is not applicable if the person making delivery:~~

~~(a) Complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign, or~~

~~(b) Establishes that the person conducting the business is generally known by her or his creditors to be substantially engaged in selling the goods of others, or~~

~~(c) Complies with the filing provisions of the chapter on secured transactions (chapter 679).~~

(3)~~(4)~~ Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this chapter (s. 672.201) and as contradicting the sale aspect of the contract within the provisions of this chapter on parol or extrinsic evidence (s. 672.202).

Section 14. Section 672.502, Florida Statutes, is amended to read:

672.502 Buyer's right to goods on seller's *repudiation, failure to deliver, or* insolvency.—

(1) Subject to *subsections* ~~subsection~~ (2) *and (3),* and even though the goods have not been shipped, a buyer who has paid a part or all of the price of goods in which she or he has a special property under the provisions of the immediately preceding section may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if:

(a) In the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by the contract; or

(b) In all cases, the seller becomes insolvent within ten days after receipt of the first installment on their price.

(2) The buyer's right to recover the goods under paragraph (1)(a) vests upon acquisition of a special property, even if the seller has not then repudiated or failed to deliver.

(3)~~(2)~~ If the identification creating her or his special property has been made by the buyer she or he acquires the right to recover the goods only if they conform to the contract for sale.

Section 15. Section 672.716, Florida Statutes, is amended to read:

672.716 Buyer's right to specific performance or replevin.—

(1) Specific performance may be decreed where the goods are unique or in other proper circumstances.

(2) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

(3) The buyer has a right of replevin for goods identified to the contract if after reasonable effort she or he is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. *In the case of goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.*

Section 16. Subsection (3) of section 674.2101, Florida Statutes, is amended to read:

674.2101 Security interest of collecting bank in items, accompanying documents, and proceeds.—

(3) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to chapter 679, but:

(a) No security agreement is necessary to make the security interest enforceable (s. *679.2031(2)(c)1.* ~~679.203(1)(a)~~);

(b) No filing is required to perfect the security interest; and

(c) The security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

Section 17. Section 675.1181, Florida Statutes, is created to read:

675.1181 Security interest of issuer of nominated person.—

(1) An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.

(2) As long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (1), the security interest continues and is subject to chapter 679, but a security agreement is not necessary to make the security interest enforceable under s. 679.2031(2)(c):

(a) If the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and

(b) If the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document.

Section 18. Subsection (1) of section 677.503, Florida Statutes, is amended to read:

677.503 Document of title to goods defeated in certain cases.—

(1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither:

(a) Delivered or entrusted them or any document of title covering them to the bailor or the bailor's nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this chapter (s. 677.403) or with power of disposition under this code (ss. 672.403 and *679.320* ~~679.307~~) or other statute or rule of law; nor

(b) Acquiesced in the procurement by the bailor or the bailor's nominee of any document of title.

Section 19. Subsection (6) of section 678.1031, Florida Statutes, is amended to read:

678.1031 Rules for determining whether certain obligations and interests are securities or financial assets.—

(6) A commodity contract, as defined in s. *679.1021(1)(o)* ~~679.115~~, is not a security or a financial asset.

Section 20. Subsections (4) and (6) of section 678.1061, Florida Statutes, are amended to read:

678.1061 Control.—

(4) A purchaser has "control" of a security entitlement if:

(a) The purchaser becomes the entitlement holder; ~~or~~

(b) The securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder*; or*~~.~~

(c) Another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that the person has control on behalf of the purchaser.

(6) A purchaser who has satisfied the requirements of *subsection* ~~paragraph~~ (3)~~(b)~~ or *subsection* ~~paragraph~~ (4)~~(b)~~ has control*,* even if the registered owner in the case of *subsection* ~~paragraph~~ (3)~~(b)~~ or the entitlement holder in the case of *subsection* ~~paragraph~~ (4)~~(b)~~ retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

Section 21. Subsection (5) of section 678.1101, Florida Statutes, is amended to read:

678.1101 Applicability; choice of law.—

(5) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(a) If an agreement between the securities intermediary and its entitlement holder *governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this part, this chapter, or this code* ~~specifies that it is governed by the law of a particular jurisdiction~~, that jurisdiction is the securities intermediary's jurisdiction.

(b) If paragraph (a) does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(c)~~(b)~~ If *neither paragraph (a) nor paragraph (b) applies and* an agreement between the securities intermediary and its entitlement holder *governing the securities account* ~~does not specify the governing law as provided in paragraph (a), but~~ expressly *provides* ~~specifies~~ that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(d)~~(c)~~ If *none of the preceding paragraphs applies* ~~an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (a) or paragraph (b)~~, the securities intermediary's jurisdiction is the jurisdiction in which ~~is located~~ the office identified in an account statement as the office serving the entitlement holder's account *is located*.

(e)~~(d)~~ If *none of the preceding paragraphs applies* ~~an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (a) or paragraph (b) and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph (c)~~, the securities intermediary's jurisdiction is the jurisdiction in which ~~is located~~ the chief executive office of the securities intermediary *is located*.

Section 22. Subsection (1) of section 678.3011, Florida Statutes, is amended to read:

678.3011 Delivery.—

(1) Delivery of a certificated security to a purchaser occurs when:

(a) The purchaser acquires possession of the security certificate;

(b) Another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or

(c) A securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and *is registered in the name of the purchaser, payable to the order of the purchaser, or* ~~has been~~ specially indorsed to the purchaser by an effective indorsement *and has not been endorsed to the securities intermediary or in blank*.

Section 23. Section 678.3021, Florida Statutes, is amended to read:

678.3021 Rights of purchaser.—

(1) Except as otherwise provided in subsections (2) and (3), *a purchaser* ~~upon delivery~~ of a certificated or uncertificated security ~~to a~~

~~purchaser, the purchaser~~ acquires all rights in the security that the transferor had or had power to transfer.

(2) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(3) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

Section 24. Section 678.5101, Florida Statutes, is amended to read:

678.5101 Rights of purchaser of security entitlement from entitlement holder.—

(1) *In a case not covered by the priority rules in chapter 679 or the rules stated in subsection (3),* an action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(2) If an adverse claim could not have been asserted against an entitlement holder under s. 678.5021, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(3) In a case not covered by the priority rules in chapter 679, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. *Except as otherwise provided in subsection (4),* purchasers who have control rank *according to priority in time of:*

(a) The purchaser's becoming the person for whom the securities account, in which the security entitlement is carried, is maintained, if the purchaser obtained control under s. 678.1061(4)(a);

(b) The securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under s. 678.1061(4)(b); or

(c) If the purchaser obtained control through another person under s. 678.1061(4)(c), the time on which priority would be based under this subsection if the other person were the secured party. ~~equally, except that~~

(4) A securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

Section 25. Subsection (3) of section 680.1031, Florida Statutes, is amended to read:

680.1031 Definitions and index of definitions.—

(3) The following definitions in other chapters of this code apply to this chapter:

(a) "Account," s. *679.1021(1)(b)* ~~679.106~~.

(b) "Between merchants," s. 672.104(3).

(c) "Buyer," s. 672.103(1)(a).

(d) "Chattel paper," s. *679.1021(1)(k)* ~~679.105(1)(b)~~.

(e) "Consumer goods," s. *679.1021(1)(w)* ~~679.109(1)~~.

(f) "Document," s. *679.1021(1)(dd)* ~~679.105(1)(f)~~.

(g) "Entrusting," s. 672.403(3).

(h) "General *intangible* ~~intangibles~~," s. *679.1021(1)(pp)* ~~679.106~~.

(i) "Good faith," s. 672.103(1)(b).

(j) "Instrument," s. *679.1021(1)(uu)* ~~679.105(1)(i)~~.

(k) "Merchant," s. 672.104(1).

(l) "Mortgage," s. *679.1021(1)(ccc)* ~~679.105(1)(j)~~.

(m) "Pursuant to a commitment," s. *679.1021(1)(ppp)* ~~679.105(1)(k)~~.

(n) "Receipt," s. 672.103(1)(c).

(o) "Sale," s. 672.106(1).

(p) "Sale on approval," s. 672.326(1).

(q) "Sale or return," s. 672.326(1).

(r) "Seller," s. 672.103(1)(d).

Section 26. Section 680.303, Florida Statutes, is amended to read:

680.303 Alienability of party's interest under lease contract or of lessor's residual interest in goods; delegation of performance; transfer of rights.—

(1) As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to chapter 679 *by reason of s. 679.1091(1)(c)*.

(2) Except as provided in *subsection* ~~subsections~~ (3) and *s. 679.4071*~~(4)~~, a provision in a lease agreement which:

(a) Prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods; or

(b) Makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection *(4)* ~~(5)~~, but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

~~(3) A provision in a lease agreement which:~~

~~(a) Prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods; or~~

~~(b) Makes such a transfer an event of default, is not enforceable unless, and then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subsection (5) unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.~~

(3)~~(4)~~ A provision in a lease agreement which:

(a) Prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation; or

(b) Makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection *(4)* ~~(5)~~.

(4)~~(5)~~ Subject to *subsection* ~~subsections~~ (3) and *s. 679.4071*~~(4)~~:

(a) If a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in s. 680.501(2);

(b) If paragraph (a) is not applicable and if a transfer is made that is prohibited under a lease agreement or materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

(5)~~(6)~~ A transfer of "the lease" or of "all my rights under the lease" or a transfer in similar general terms is a transfer of rights, and unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

(6)~~(7)~~ Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

(7)~~(8)~~ In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous.

Section 27. Section 680.307, Florida Statutes, is amended to read:

680.307 Priority of liens arising by attachment or levy on, security interests in, and other claims to goods.—

(1) Except as otherwise provided in s. 680.306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in *subsection* ~~subsections~~ (3) ~~and (4)~~ and in ss. 680.306 and 680.308, a creditor of a lessor takes subject to the lease contract unless~~:~~

~~(a)~~ the creditor holds a lien that attached to the goods before the lease contract became enforceable.~~;~~

~~(b) The creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interests; or~~

~~(c) The creditor holds a security interest in the goods which was perfected (s. 679.303) before the lease contract became enforceable.~~

(3) *Except as otherwise provided in ss. 679.3171, 679.321, and 679.323, a lessee takes a leasehold interest subject to a security interest held by a creditor or lessor.* ~~A lessee in the ordinary course of business takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected (s. 679.303) and the lessee knows of its existence.~~

~~(4) A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than 45 days after the lease contract becomes enforceable, whichever first occurs, unless the future advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.~~

Section 28. Paragraph (b) of subsection (1) of section 680.309, Florida Statutes, is amended to read:

680.309 Lessor's and lessee's rights when goods become fixtures.—

(1) In this section:

(b) A "fixture filing" is the filing, in the office where a mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of s. *679.5021(1) and (2)* ~~679.402(5)~~.

Section 29. This act shall take effect January 1, 2002.

And the title is amended as follows:

On page 1, line 2, through page 4, line 27
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to the Uniform Commercial Code; revising ch. 679, F.S., relating to secured transactions; creating ss. 679.1011, 679.1021, 679.1031, 679.1041, 679.1051, 679.1061, 679.1071, 679.1081, 679.1091, 679.1101, F.S.; providing a short title, definitions, and general concepts; creating ss. 679.2011, 679.2021, 679.2031, 679.2041, 679.2051, 679.2061, 679.2071, 679.2081, 679.209, 679.210, F.S.; providing for the effectiveness and attachment of security agreements; prescribing rights and duties of secured parties; creating ss. 679.3011, 679.3021, 679.3031, 679.3041, 679.3051, 679.3061, 679.3071, 679.3081, 679.091, 679.3101, 679.3111, 679.3121, 679.3131, 679.3141, 679.3151, 679.3161, 679.3171, 679.3181, 679.319, 679.320, 679.321, 679.322, 679.323, 679.324, 679.325, 679.326, 679.327, 679.328, 679.329, 679.330, 679.331, 679.332, 679.333, 679.334, 679.335, 679.336, 679.337, 679.338, 679.340, 679.341, 679.342, F.S.; providing for perfection and priority of security interests; creating ss. 679.40111, 679.4021, 679.4031, 679.4041, 679.4051, 679.4061, 679.4071, 679.4081, 679.409, F.S.; prescribing rights of third parties; providing legislative findings; creating ss. 679.5011, 679.5021, 679.5031, 679.5041, 679.5051, 679.5061, 679.5071, 679.508, 679.509, 679.510, 679.511, 679.512, 679.513, 679.524, 679.515, 679.516, 679.517, 679.518, 679.519, 679.520, 679.521, 679.522, 679.523, 679.524, 679.525, 679.526, 679.527, F.S.; prescribing filing procedures for perfection of a security interest; providing forms; providing duties and operation of filing office; providing authority for the Secretary of State to delegate certain filing functions to a private filing agency under certain circumstances; providing criteria, requirements, procedures, and limitations; creating ss. 679.601, 679.602, 679.603, 679.604, 679.605, 679.606, 679.607, 679.608, 679.609, 679.610, 679.611, 679.612, 679.613, 679.614, 679.615, 679.616, 679.617, 679.618, 679.619, 679.620, 679.621, 679.622, 679.623, 679.624, 679.625, 679.626, 679.627, F.S.; prescribing procedures for default and enforcement of security interests; providing for forms; creating ss. 679.701, 679.702, 679.703, 679.704, 679.705, 679.706, 679.707, 679.708, 679.709, F.S.; providing transitional effective dates and savings clause for perfected and unperfected security interests, specified actions, and financing statements; specifying priority of conflicting claims; amending s. 671.105, F.S.; specifying the precedence of law governing the perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens; amending s. 671.201, F.S.; revising definitions used in the Uniform Commercial Code; amending s. 672.103, F.S.; conforming a cross-reference; amending s. 672.210, F.S.; providing that the creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially affects the buyer unless the enforcement actually results in a delegation of material performance of the seller; amending s. 672.326, F.S.; eliminating provisions relating to consignment sales; amending s. 672.502, F.S.; modifying buyers' rights to goods on a seller's repudiation, failure to deliver, or insolvency; amending s. 672.716, F.S.; providing that, for goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property; amending s. 674.2101, F.S.; conforming a cross-reference; creating s. 675.1181, F.S.; specifying conditions under which an issuer or nominated person has a security interest in a document presented under a letter of credit; amending ss. 677.503, 678.1031, F.S.; conforming cross-references; amending s. 678.1061, F.S.; specifying a condition under which a purchaser has control of a security entitlement; amending s. 678.1101, F.S.; modifying rules that determine a securities intermediary's jurisdiction; amending s. 678.3011, F.S.; providing for delivery of a certificated security to a purchaser; amending s. 678.3021, F.S.; eliminating a requirement that a purchaser of a certificated or uncertificated security receive delivery prior to acquiring all rights in the security; amending s. 678.5101, F.S.; prescribing rights of a purchaser of a security entitlement from an entitlement holder; amending ss. 680.1031, 680.303, 680.307, 680.309, F.S.; conforming cross-references; repealing ss. 679.101, 679.102, 679.103, 679.104, 679.105, 679.106, 679.107, 679.108, 679.109, 679.110, 679.112, 679.113,

679.114, 679.115, 679.116, F.S., relating to the short title, applicability, and definitions of ch. 679, F.S.; repealing ss. 679.201, 679.202, 679.203, 679.204, 679.205, 679.206, 679.207, 679.208, F.S., relating to the validity of security agreements and the rights of parties to such agreements; repealing ss. 679.301, 679.302, 679,303, 679.304, 679.305, 679.306, 679.307, 679.308, 679.309, 679.310, 679.311, 679.312, 679.313, 679.314, 679.315, 679.316, 679.317, 679.318, F.S., relating to rights of third parties, perfected and unperfected security interests, and rules of priority; repealing ss. 679.401, 679.4011, 679.402, 679.403, 679.404, 679.405, 679.406, 679.407, 679.408, F.S., relating to filing of security interests; repealing ss. 679.501, 679.502, 679.503, 679.504, 679.505, 679.506, 679.507, F.S., relating to rights of the parties upon default under a security agreement; providing effective dates.

Rep. Kottkamp moved the adoption of the amendment.

The Committee on Business Regulation offered the following:

(Amendment Bar Code: 393613)

Amendment 1 to Amendment 1—On page 90, lines 3-18, and on page 94, lines 12-27,
remove from the amendment: all of said lines

and insert in lieu thereof:

(a) A claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. subsection 104(a)(1) or (2).

(b) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. subsection 1396p(d)(4).

(c) The interest of a debtor who is a natural person in unemployment, alimony, disability, pension, or retirement benefits or victim compensation funds.

(d) The interest of a debtor who is a natural person in other benefits which are designated solely for his or her maintenance, support, or education, the assignability of which is expressly prohibited or restricted by any statute.

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 770081)

Amendment 2 to Amendment 1—On page 15, lines 21-29
remove from the amendment: all of said lines
(Renumber subsequent subparagraphs)

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 513705)

Amendment 3 to Amendment 1—On page 25, line 28, through page 26, line 8 of the amendment
remove from the amendment: all of said lines

and insert in lieu thereof:

States preempts this chapter; or

(b) The rights of a transferee beneficiary or

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 175599)

Amendment 4 to Amendment 1—On page 28, line 1 of the amendment
after the word "a" insert: *government or*

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 153725)

Amendment 5 to Amendment 1—On page 97, lines 25-30
remove from the amendment: all of said lines

and insert in lieu thereof:

(b) The Florida Secured Transaction Registry, in accordance with ss. 679.3011-679.3071, and in all other cases.

(2) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the Office of the Secretary of State, or the filing office authorized by s. 697.527 to accept filings for the Florida Secured Transaction Registry. The financing statement also constitutes

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 560865)

Amendment 6 to Amendment 1—On page 113, line 24, through page 115, line 7
remove from the amendment: all of said lines

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 445133)

Amendment 7 to Amendment 1—On page 119, line 6
remove from the amendment: *mandatory*

and insert in lieu thereof: *acceptable*

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 035637)

Amendment 8 to Amendment 1—On page 121, lines 8-15
remove from the amendment: all of said lines

and insert in lieu thereof:

(a) For filing an initial financing statement, $28 for the first page, and second page, if any, which shall include the cost of filing a termination statement for the financing statement;

(c) For indexing by additional debtor, secured party, or assignee, $3 per additional name indexed;

(d) For each additional page attached to a

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 610769)

Amendment 9 to Amendment 1—On page 122, line 12, through page 126, line 8
remove from the amendment: all of said lines

and insert in lieu thereof:

679.527 Florida Secured Transaction Registry and Authority to Contract Filing Office and Filing Officer Duties Under Part V.—

(1) The "Florida Secured Transaction Registry" means that centralized data base for which all initial financing statements, amendments, assignments, and other statements of change ("UCC Records"), that are authorized to be filed under this chapter, are filed, maintained, and can be retrieved from. The Florida Secured Transaction Registry shall include the data and other information pertaining to UCC records filed with the Florida Secretary of State and effective under this chapter before October 1, 2001, or filed with the Secretary of State or filed with the Private Filing Agency as authorized in this section after October 1, 2001. Consistent with s. 679.5011(1)(a), this section does not apply to initial financing statements, amendments, assignments, and other statements of change filed under this chapter with an office of the clerk of the circuit court.

(2) Except as otherwise provided in this section, the duties of the filing office and filing officer under this chapter may be performed by an entity qualified to transact business in the State of Florida (the "Private Filing Agency") which has entered into a written contract with the Department of State satisfying the minimum requirements provided in this section. The Private Filing Agency, among its other duties conferred by contract or by this part, shall have the responsibility for acting as the filing office under this chapter and overseeing the continued existence and maintenance of the Florida Secured Transaction Registry.

(3) The Secretary of State, or the Private Filing Agency if authorized by the Secretary of State, may enter into a contract with an entity qualified to transact business in the State of Florida for the purpose of physically performing the filing officer duties under this part. However, the Private Filing Agency, unless displaced by the Secretary of State or a subsequent Private Filing Agency, shall remain the filing office under this chapter.

(4) Upon the effective date of the contract with the Private Filing Agency or October 31, 2001, whichever occurs later, the Secretary of State shall cease acting as the filing officer and filing office under this part, although the Secretary of State shall retain the authority and powers as otherwise provided in this section or by other applicable law.

(5) The Secretary of State is authorized to and shall immediately develop and issue a Request for Qualifications seeking a qualified entity to perform the duties of the Private Filing Agency under this chapter. The qualifications and any contract shall, at a minimum, require:

(a) Creation and maintenance of a central filing, recording, retrieval, and response system as part of the Florida Secured Transaction Registry that is capable of satisfying the filing officer and filing office requirements under this chapter, which system shall be comparable and compatible with the filing system in existence immediately prior to the effective date of this section to the fullest extent possible as determined by the Secretary of State;

(b) Continuous and easy access by the public, including review at no charge through the Internet or such other substitute medium acceptable to the Secretary of State, of all UCC Records filed and maintained by the Department of State under this chapter as of the effective date of this section, subject to any requirements or limitations of chapter 119 and this chapter;

(c) Records maintenance in compliance with this part and chapter 119;

(d) Oversight by the Secretary of State, including compliance audits of the performance standards described below;

(e) Maintenance of the current level of filing fees and procedures for the deposit of revenues, net of operating costs, consistent with chapter 15; and

(f) Bonding in an amount acceptable to the Secretary of State.

(6) Except as otherwise provided in a contract approved by the Secretary of State, the Private Filing Agency shall not be liable to any person harmed by the failure of the Private Filing Agency to comply with the filing office or filing officer requirements under this chapter, unless such failure is due to specific acts or omissions done recklessly or committed knowingly and with malicious intent and then only to the extent such acts or omissions directly and proximately cause identifiable damages.

(7) Notwithstanding the requirements of chapter 287, the Secretary of State shall have the authority to determine and select the most qualified respondent to the Request for Qualifications as the Private Filing Agency under this section and negotiate and enter into one or more contracts as provided in this section.

(8) The Secretary of State shall develop performance standards to ensure that the Florida Secured Transaction Registry and its central filing system to be implemented and maintained by the Private Filing Agency is accurate and complete, that the system implements and maintains the responsibilities of the filing office and filing officer under this chapter, and that the system implemented meets the needs of various persons and entities using or affected by the filing system.

(9) Any contract between the Secretary of State and the Private Filing Agency shall not be assignable, absolutely or for security, or otherwise transferable, without the express written consent of the Secretary of State, which consent may be withheld in his or her sole and absolute discretion.

(10) The Secretary of State shall immediately assume, either temporarily or permanently, the duties of the filing office and filing officer under this chapter, or assign such filing office and filing officer duties to a new Private Filing Agency that meets the requirements of this chapter and enters into a new contract with the Secretary of State satisfying the requirements of this section, upon the happening of any one of the following:

(a) a Private Filing Agency has not been approved by the Secretary of State and a contract required by this section has not been executed;

(b) the Private Filing Agency ceases, is unable, or fails, to perform the duties required under this chapter by the filing office or filing officer or as provided for in any contract, as determined by the Secretary of State in accordance with the terms of the contract;

(c) an assignee for the benefit of creditors is appointed for the Private Filing Agency or its assets or a receiver is appointed for the Private Filing Agency or its assets other than the Secretary of State;

(d) a bankruptcy case or other insolvency proceeding is commenced by the Private Filing Agency; or

(e) an involuntary bankruptcy case or other insolvency proceeding is commenced against the Private Filing Agency and the case or proceeding is not dismissed within five (5) business days of the filing of the petition.

(11) Immediately upon the occurrence of an event described in subsection (10) any rights of the Private Filing Agency pertaining to the contract or otherwise, with respect to this chapter, shall terminate without any further action being required. Additionally, any rights of the Private Filing Agency pertaining to the contract or otherwise, with respect to this chapter shall terminate in the discretion of the Secretary of State upon written notice to said Private Filing Agency.

(12) If required by the Secretary of State, any contracts with the Private Filing Agency entered into pursuant to this section shall provide that any exclusive rights of the Private Filing Agency shall terminate automatically without further action upon any default under the contract, even if the default is capable of being cured.

(13) The Florida Secured Transaction Registry; data bases, source or object codes, and any software relating to the Florida Secured Transaction Registry and system for central filing under this part, and all information contained in any of the foregoing; all documents and records, in whatever form or medium, filed with, created by or maintained by the Private Filing Agency under this chapter, including all UCC Records and any other records or documents relating to the UCC Records, in whatever form or medium, whether existing prior to the effective date of this section or thereafter (collectively, the "UCC Filing Office Materials and Records"); are and shall remain the sole and exclusive property of the State of Florida, and upon demand the originals and all copies are subject to the immediate turnover by the Private Filing

Agency to the Secretary of State upon the occurrence of any of the events in subsection (10). The Secretary of State shall have the right to inspect at anytime, and make copies of, the UCC Filing Office Materials and Records. The Private Filing Agency shall not acquire rights to the Florida Secured Transaction Registry or the UCC Filing Office Materials and Records, and may not sell, license, lease, donate, copyright, patent, trademark, pledge or otherwise transfer any of the UCC Filing Office Materials and Records to any person or entity, except as authorized in writing by the Secretary of State.

(14) To the extent permitted by its contract with the Secretary of State and provided the procedures for certification required by the Secretary of State are complied with, the Private Filing Agency is authorized to certify any of the UCC Records for the purposes of admissibility in a state or federal court or other tribunal proceeding, upon request for an authenticated record. Said certified record shall constitute a public record under s. 90.803(8).

(15) The Private Filing Agency shall be subject to the exclusive original jurisdiction of the Circuit Court of Leon County, Florida, for any litigation between the Secretary of State and the Private Filing Agency. The Secretary of State shall be entitled to injunctive relief on an emergency basis if the Private Filing Agency or its agents or employees fail to turn over any of the UCC Filing Office Materials and Records or otherwise fails to comply with the contracts or with the filing officer or filing office duties under this chapter.

(16) The terms "Florida Secretary of State," "Secretary of State," or "Secretary", when employed in this chapter in and connection with carrying out the filing office and filing officer duties assigned under this chapter, also shall mean the Private Filing Agency except as otherwise provided in the approved contract with said entities.

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 895353)

Amendment 10 to Amendment 1—On page 156, line 31 of the amendment

after the words "cost of" insert: ,

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 892039)

Amendment 11 to Amendment 1—On page 162, lines 16-17
remove from the amendment: all of said lines

and insert in lieu thereof:

679.701 Effective date.—This part takes effect January 1, 2002.

Rep. Kottkamp moved the adoption of the amendment to the amendment, which failed of adoption.

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

The Council for Smarter Government offered the following:

(Amendment Bar Code: 614339)

Amendment 2—On page 97, lines 22-26
remove from the bill: all of said lines

and insert in lieu thereof:

2. The collateral is goods that are or are to become fixtures in this state, in which event the financing statement shall be filed as a fixture filing.

(b) The Office of the Secretary of State, in accordance with ss. 679.3011-679.3071, in all other cases, including a case in which the collateral is goods that are or are to become fixtures outside this state.

Rep. Kottkamp moved the adoption of the amendment, which failed of adoption.

Representative(s) Crow offered the following:

(Amendment Bar Code: 830539)

Amendment 3 (with title amendment)—On page 4, line 30, remove from the bill: everything after the enacting clause,

and insert in lieu thereof:

Section 1. Part I of chapter 679, Florida Statutes, consisting of sections 679.101, 679.102, 679.103, 679.104, 679.105, 679.106, 679.107, 679.108, 679.109, 679.110, 679.112, 679.113, 679.114, 679.115, and 679.116, Florida Statutes, is repealed and a new part I of that chapter, consisting of sections 679.1011, 679.1021, 679.1031, 679.1041, 679.1051, 679.1061, 679.1071, 679.1081, 679.1091, and 679.1101, Florida Statutes, is created to read:

PART I
GENERAL PROVISIONS

679.1011 Short title.—This chapter may be cited as Uniform Commercial Code-Secured Transactions.

679.1021 Definitions and index of definitions.—

(1) In this chapter, the term:

(a) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(b) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance, for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of; for services rendered or to be rendered; for a policy of insurance issued or to be issued; for a secondary obligation incurred or to be incurred; for energy provided or to be provided; for the use or hire of a vessel under a charter or other contract; arising out of the use of a credit or charge card or information contained on or for use with the card; or as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include rights to payment evidenced by chattel paper or an instrument; commercial tort claims; deposit accounts; investment property; letter-of-credit rights or letters of credit; or rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(c) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(d) "Accounting," except as used in the term "accounting for," means a record:

1. Authenticated by a secured party;

2. Indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

3. Identifying the components of the obligations in reasonable detail.

(e) "Agricultural lien" means an interest, other than a security interest, in farm products:

1. Which secures payment or performance of an obligation for:

a. Goods or services furnished in connection with a debtor's farming operation; or

b. Rent on real property leased by a debtor in connection with the debtor's farming operation;

2. Which is created by statute in favor of a person who:

a. In the ordinary course of the person's business furnished goods or services to a debtor in connection with a debtor's farming operation; or

b. Leased real property to a debtor in connection with the debtor's farming operation; and

3. Whose effectiveness does not depend on the person's possession of the personal property.

(f) "As-extracted collateral" means:

1. Oil, gas, or other minerals that are subject to a security interest that:

a. Is created by a debtor having an interest in the minerals before extraction; and

b. Attaches to the minerals as extracted; or

2. Accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(g) "Authenticate" means:

1. To sign; or

2. To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

(h) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(i) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(j) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(k) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term does not include charters or other contracts involving the use or hire of a vessel or records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(l) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

1. Proceeds to which a security interest attaches;

2. Accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

3. Goods that are the subject of a consignment.

(m) "Commercial tort claim" means a claim arising in tort with respect to which:

1. The claimant is an organization; or

2. The claimant is an individual and the claim:

a. Arose in the course of the claimant's business or profession; and

b. Does not include damages arising out of personal injury to or the death of an individual.

(n) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(o) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

1. Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

2. Traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(p) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(q) "Commodity intermediary" means a person who:

1. Is registered as a futures commission merchant under federal commodities law; or

2. In the ordinary course of the person's business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(r) "Communicate" means:

1. To send a written or other tangible record;

2. To transmit a record by any means agreed upon by the persons sending and receiving the record; or

3. In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(s) "Consignee" means a merchant to which goods are delivered in a consignment.

(t) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

1. The merchant:

a. Deals in goods of that kind under a name other than the name of the person making delivery;

b. Is not an auctioneer; and

c. Is not generally known by its creditors to be substantially engaged in selling the goods of others;

2. With respect to each delivery, the aggregate value of the goods is $1,000 or more at the time of delivery;

3. The goods are not consumer goods immediately before delivery; and

4. The transaction does not create a security interest that secures an obligation.

(u) "Consignor" means a person who delivers goods to a consignee in a consignment.

(v) "Consumer debtor" means a debtor in a consumer transaction.

(w) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(x) "Consumer-goods transaction" means a consumer transaction in which:

1. An individual incurs an obligation primarily for personal, family, or household purposes; and

2. A security interest in consumer goods secures the obligation.

(y) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(z) "Consumer transaction" means a transaction in which an individual incurs an obligation primarily for personal, family, or household purposes; a security interest secures the obligation; and the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(aa) "Continuation statement" means an amendment of a financing statement which:

1. Identifies, by its file number, the initial financing statement to which it relates; and

2. Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(bb) "Debtor" means:

1. A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

2. A seller of accounts, chattel paper, payment intangibles, or promissory notes; or

3. A consignee.

(cc) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(dd) "Document" means a document of title or a receipt of the type described in s. 677.201(2).

(ee) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(ff) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(gg) "Equipment" means goods other than inventory, farm products, or consumer goods.

(hh) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

1. Crops grown, growing, or to be grown, including:

a. Crops produced on trees, vines, and bushes; and

b. Aquatic goods produced in aquacultural operations;

2. Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

3. Supplies used or produced in a farming operation; or

4. Products of crops or livestock in their unmanufactured states.

(ii) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(jj) "File number" means the number assigned to an initial financing statement pursuant to s. 679.519(1).

(kk) "Filing office" means an office designated in s. 679.5011 as the place to file a financing statement.

(ll) "Filing-office rule" means a rule adopted pursuant to s. 679.526.

(mm) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(nn) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying s. 679.502(1) and (2). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(oo) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(pp) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(qq) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(rr) "Goods" means all things that are movable when a security interest attaches. The term includes fixtures; standing timber that is to be cut and removed under a conveyance or contract for sale; the unborn young of animals; crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes; and manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if the program is associated with the goods in such a manner that it customarily is considered part of the goods, or by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(ss) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(tt) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(uu) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in the ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include investment property, letters of credit, or writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(vv) "Inventory" means goods, other than farm products, which:

1. Are leased by a person as lessor;

2. Are held by a person for sale or lease or to be furnished under a contract of service;

3. Are furnished by a person under a contract of service; or

4. Consist of raw materials, work in process, or materials used or consumed in a business.

(ww) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(xx) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(yy) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(zz) "Lien creditor" means:

1. A creditor that has acquired a lien on the property involved by attachment, levy, or the like;

2. An assignee for benefit of creditors from the time of assignment;

3. A trustee in bankruptcy from the date of the filing of the petition; or

4. A receiver in equity from the time of appointment.

(aaa) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(bbb) "Manufactured-home transaction" means a secured transaction:

1. That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

2. In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(ccc) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation, which interest was created or derived from an instrument described in s. 697.01.

(ddd) "New debtor" means a person who becomes bound as debtor under s. 679.2031(4) by a security agreement previously entered into by another person.

(eee) "New value" means money; money's worth in property, services, or new credit; or release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(fff) "Noncash proceeds" means proceeds other than cash proceeds.

(ggg) "Obligor" means a person who, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, owes payment or other performance of the obligation, has provided property other than the collateral to secure payment or other performance of the obligation, or is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(hhh) "Original debtor," except as used in s. 679.3101(3), means a person who, as debtor, entered into a security agreement to which a new debtor has become bound under s. 679.2031(4).

(iii) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(jjj) "Person related to," with respect to an individual, means:

1. The spouse of the individual;

2. A brother, brother-in-law, sister, or sister-in-law of the individual;

3. An ancestor or lineal descendant of the individual or the individual's spouse; or

4. Any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(kkk) "Person related to," with respect to an organization, means:

1. A person directly or indirectly controlling, controlled by, or under common control with the organization;

2. An officer or director of, or a person performing similar functions with respect to, the organization;

3. An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph 1.;

4. The spouse of an individual described in subparagraph 1., subparagraph 2., or subparagraph 3.; or

5. An individual who is related by blood or marriage to an individual described in subparagraph 1., subparagraph 2., subparagraph 3., or subparagraph 4. and shares the same home with the individual.

(lll) "Proceeds," except as used in s. 679.609(2), means the following property:

1. Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

2. Whatever is collected on, or distributed on account of, collateral;

3. Rights arising out of collateral;

4. To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

5. To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(mmm) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(nnn) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to ss. 679.620, 679.621, and 679.622.

(ooo) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(ppp) "Record," except as used in the terms "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(qqq) "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(rrr) "Secondary obligor" means an obligor to the extent that:

1. The obligor's obligation is secondary; or

2. The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(sss) "Secured party" means:

1. A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

2. A person who holds an agricultural lien;

3. A consignor;

4. A person to whom accounts, chattel paper, payment intangibles, or promissory notes have been sold;

5. A trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

6. A person who holds a security interest arising under s. 672.401, s. 672.505, s. 672.711(3), s. 680.508(5), s. 674.2101, or s. 675.118.

(ttt) "Security agreement" means an agreement that creates or provides for a security interest.

(uuu) "Send," in connection with a record or notification, means:

1. To deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

2. To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph 1.

(vvv) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(www) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(xxx) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(yyy) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(zzz) "Termination statement" means an amendment of a financing statement which:

1. Identifies, by its file number, or if a fixture filing, by the official records book and page number, the initial financing statement to which it relates; and

2. Indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(aaaa) "Transmitting utility" means a person primarily engaged in the business of:

1. Operating a railroad, subway, street railway, or trolley bus;

2. Transmitting communications electrically, electromagnetically, or by light;

3. Transmitting goods by pipeline or sewer; or

4. Transmitting or producing and transmitting electricity, steam, gas, or water.

(2) The following definitions in other chapters apply to this chapter:

"Applicant"	*s. 675.103.*
"Beneficiary"	*s. 675.103.*
"Broker"	*s. 678.1021.*
"Certificated security"	*s. 678.1021.*
"Check"	*s. 673.1041.*
"Clearing corporation"	*s. 678.1021.*
"Contract for sale"	*s. 672.106.*
"Customer"	*s. 674.104.*
"Entitlement holder"	*s. 678.1021.*
"Financial asset"	*s. 678.1021.*
"Holder in due course"	*s. 673.3021.*
"Issuer" (with respect to a letter of credit or letter-of-credit right)	*s. 675.103.*
"Issuer" (with respect to a security)	*s. 678.2011.*
"Lease"	*s. 680.1031.*
"Lease agreement"	*s. 680.1031.*
"Lease contract"	*s. 680.1031.*
"Leasehold interest"	*s. 680.1031.*
"Lessee"	*s. 680.1031.*
"Lessee in ordinary course of business"	*s. 680.1031.*
"Lessor"	*s. 680.1031.*
"Lessor's residual interest"	*s. 680.1031.*
"Letter of credit"	*s. 675.103.*
"Merchant"	*s. 672.104.*
"Negotiable instrument"	*s. 673.1041.*
"Nominated person"	*s. 675.103.*
"Note"	*s. 673.1041.*
"Proceeds of a letter of credit"	*s. 675.114.*
"Prove"	*s. 673.1031.*
"Sale"	*s. 672.106.*
"Securities account"	*s. 678.5011.*
"Securities intermediary"	*s. 678.1021.*
"Security"	*s. 678.1021.*
"Security certificate"	*s. 678.1021.*
"Security entitlement"	*s. 678.1021.*
"Uncertificated security"	*s. 678.1021.*

(3) Chapter 671 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

679.1031 Purchase-money security interest; application of payments; burden of establishing.—

(1) In this section, the term:

(a) "Purchase-money collateral" means goods or software that secures a purchase-money obligation incurred with respect to that collateral.

(b) "Purchase-money obligation" means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in or the use of the collateral if the value is in fact so used.

(2) A security interest in goods is a purchase-money security interest:

(a) To the extent that the goods are purchase-money collateral with respect to that security interest;

(b) If the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and

(c) Also to the extent that the security interest secures a purchase-money obligation incurred with respect to software in which the secured party holds or held a purchase-money security interest.

(3) A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

(a) The debtor acquired interest in the software in an integrated transaction in which the debtor acquired an interest in the goods; and

(b) The debtor acquired interest in the software for the principal purpose of using the software in the goods.

(4) The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

(5) If the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(a) In accordance with any reasonable method of application to which the parties agree;

(b) In the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(c) In the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

1. To obligations that are not secured; and

2. If more than one obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

(6) A purchase-money security interest does not lose its status as such, even if:

(a) The purchase-money collateral also secures an obligation that is not a purchase-money obligation;

(b) Collateral that is not purchase-money collateral also secures the purchase-money obligation; or

(c) The purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

(7) A secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

679.1041 Control of deposit account.—

(1) A secured party has control of a deposit account if:

(a) The secured party is the bank with which the deposit account is maintained;

(b) The debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; or

(c) The secured party becomes the bank's customer with respect to the deposit account.

(2) A secured party that has satisfied subsection (1) has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

679.1051 Control of electronic chattel paper.—A secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

(1) A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in subsections (4), (5), and (6), unalterable;

(2) The authoritative copy identifies the secured party as the assignee of the record or records;

(3) The authoritative copy is communicated to and maintained by the secured party or its designated custodian;

(4) Copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the participation of the secured party;

(5) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) Any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

679.1061 Control of investment property.—

(1) A person has control of a certificated security, uncertificated security, or security entitlement as provided in s. 678.1061.

(2) A secured party has control of a commodity contract if:

(a) The secured party is the commodity intermediary with which the commodity contract is carried; or

(b) The commodity customer, secured party, and commodity intermediary have agreed that the commodity intermediary will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.

(3) A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

679.1071 Control of letter-of-credit right.—A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under s. 675.114(3) or otherwise applicable law or practice.

679.1081 Sufficiency of description.—

(1) Except as otherwise provided herein and in subsections (3), (4), and (5), a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described. A description of real estate in a record filed to perfect a security interest in crops growing or to be grown or goods which are or are to become fixtures shall be sufficient only if the filing or recording of the same constitutes constructive notice under the laws of this state, other than this chapter, which are applicable to the filing or recording of a record of a mortgage, and a mailing or street address alone shall not be sufficient.

(2) Except as otherwise provided in subsection (4), a description of collateral reasonably identifies the collateral if it identifies the collateral by:

(a) Specific listing;

(b) Category;

(c) Except as otherwise provided in subsection (5), a type of collateral defined in the Uniform Commercial Code;

(d) Quantity;

(e) Computational or allocational formula or procedure; or

(f) Except as otherwise provided in subsection (3), any other method, if the identity of the collateral is objectively determinable.

(3) A description of collateral as "all the debtor's assets" or "all the debtor's personal property" or using words of similar import does not reasonably identify the collateral for purposes of the security agreement.

(4) Except as otherwise provided in subsection (5), a description of a security entitlement, securities account, or commodity account is sufficient if it describes:

(a) The collateral by those terms or as investment property; or

(b) The underlying financial asset or commodity contract.

(5) A description only by type of collateral defined in the Uniform Commercial Code is an insufficient description of:

(a) A commercial tort claim; or

(b) In a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

679.1091 Scope.—

(1) Except as otherwise provided in subsections (3) and (4), this chapter applies to:

(a) A transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(b) An agricultural lien;

(c) A sale of accounts, chattel paper, payment intangibles, or promissory notes;

(d) A consignment;

(e) A security interest arising under s. 672.401, s. 672.502, s. 672.711, or s. 680.508(5), as provided in s. 679.1101; and

(f) A security interest arising under s. 674.2101 or s. 675.118.

(2) The application of this chapter to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this chapter does not apply.

(3) This chapter does not apply to the extent that:

(a) A statute, regulation, or treaty of the United States preempts this chapter; or

(b) The rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under s. 675.114.

(4) This chapter does not apply to:

(a) A landlord's lien, other than an agricultural lien;

(b) A lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but s. 679.333 applies with respect to priority of the lien;

(c) An assignment of a claim for wages, salary, or other compensation of an employee;

(d) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

(e) An assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;

(f) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(g) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(h) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but ss. 679.3151 and 679.322 apply with respect to proceeds and priorities in proceeds;

(i) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(j) A right of recoupment or set-off, but:

1. Section 679.340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

2. Section 679.4041 applies with respect to defenses or claims of an account debtor;

(k) The creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

1. Liens on real property in ss. 679.2031 and 679.3081;

2. Fixtures in s. 679.334;

3. Fixture filings in ss. 679.5011, 679.5021, 679.512, 679.516, and 679.519; and

4. Security agreements covering personal and real property in s. 679.604;

(l) An assignment of a claim arising in tort, other than a commercial tort claim, but ss. 679.3151 and 679.322 apply with respect to proceeds and priorities in proceeds;

(m) An assignment of a deposit account, other than a non-negotiable certificate of deposit, in a consumer transaction, but ss. 679.3151 and 679.322 apply with respect to proceeds and priorities in proceeds; or

(n) Any transfer by a government or governmental unit.

679.1101 Security interests arising under chapter 672 or chapter 680.—A security interest arising under s. 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5) is subject to this chapter. However, until the debtor obtains possession of the goods:

(1) The security interest is enforceable, even if s. 679.2031(2)(c) has not been satisfied;

(2) Filing is not required to perfect the security interest;

(3) The rights of the secured party after default by the debtor are governed by chapter 672 or chapter 680; and

(4) The security interest has priority over a conflicting security interest created by the debtor.

Section 2. Part II of chapter 679, Florida Statutes, consisting of sections 679.201, 679.202, 679.203, 679.204, 679.205, 679.206, 679.207, and 679.208, Florida Statutes, is repealed and a new part II of that chapter, consisting of sections 679.2011, 679.2021, 679.2031, 670.2041, 679.2051, 679.2061, 679.2071, 679.2081, 679.209, and 679.210, Florida Statutes, is created to read:

PART II
EFFECTIVENESS OF SECURITY AGREEMENT;
ATTACHMENT OF SECURITY INTEREST;
RIGHTS OF PARTIES TO SECURITY AGREEMENT

679.2011 General effectiveness of security agreement.—

(1) Except as otherwise provided in the Uniform Commercial Code, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(2) Nothing in this chapter validates any charge or practice illegal under any statute or regulation thereunder governing usury, small loans, retail installment sales, or the like, or extends the application of any such statute or regulation to any transaction not otherwise subject thereto. A transaction, although subject to this chapter, is also subject to chapters 516 and 520, and in the case of conflict between the provisions of this chapter and any such statute, the provisions of such statute shall control. Failure to comply with any applicable statute has only the effect which is specified therein.

679.2021 Title to collateral immaterial.—Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this chapter with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

679.2031 Attachment and enforceability of security interest; proceeds; supporting obligations; formal requisites.—

(1) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(2) Except as otherwise provided in subsections (3) through (9), a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(a) Value has been given;

(b) The debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(c) One of the following conditions is met:

1. The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

2. The collateral is not a certificated security and is in the possession of the secured party under s. 679.3131 pursuant to the debtor's security agreement;

3. The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under S. 678.3011 pursuant to the debtor's security agreement; or

4. The collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, and the secured party has control under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071 pursuant to the debtor's security agreement.

(3) Subsection (2) is subject to s. 674.2101 on the security interest of a collecting bank, s. 675.118 on the security interest of a letter-of-credit issuer or nominated person, s. 679.1101 on a security interest arising under chapter 672 or chapter 680, and s. 679.2061 on security interests in investment property.

(4) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this chapter or by contract:

(a) The security agreement becomes effective to create a security interest in the person's property; or

(b) The person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(5) If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(a) The agreement satisfies subsection (2)(c) with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(b) Another agreement is not necessary to make a security interest in the property enforceable.

(6) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by s. 679.3151 and is also attachment of a security interest in a supporting obligation for the collateral.

(7) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(8) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(9) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

679.2041 After-acquired property; future advances.—

(1) Except as otherwise provided in subsection (2), a security agreement may create or provide for a security interest in after-acquired collateral.

(2) A security interest does not attach under a term constituting an after-acquired property clause to:

(a) Consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within 10 days after the secured party gives value; or

(b) A commercial tort claim.

(3) A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

679.2051 Use or disposition of collateral permissible.—

(1) A security interest is not invalid or fraudulent against creditors solely because:

(a) The debtor has the right or ability to:

1. Use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods;

2. Collect, compromise, enforce, or otherwise deal with collateral;

3. Accept the return of collateral or make repossessions; or

4. Use, commingle, or dispose of proceeds; or

(b) The secured party fails to require the debtor to account for proceeds or replace collateral.

(2) This section does not relax the requirements of possession if attachment, perfection, or enforcement of a security interest depends upon possession of the collateral by the secured party.

679.2061 Security interest arising in purchase or delivery of financial asset.—

(1) A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

(a) The person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase; and

(b) The securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.

(2) The security interest described in subsection (1) secures the person's obligation to pay for the financial asset.

(3) A security interest in favor of a person who delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

(a) The security or other financial asset:

1. In the ordinary course of business is transferred by delivery with any necessary indorsement or assignment; and

2. Is delivered under an agreement between persons in the business of dealing with such securities or financial assets; and

(b) The agreement calls for delivery against payment.

(4) The security interest described in subsection (3) secures the obligation to make payment for the delivery.

679.2071 Rights and duties of secured party having possession or control of collateral.—

(1) Except as otherwise provided in subsection (4), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(2) Except as otherwise provided in subsection (4), if a secured party has possession of collateral:

(a) Reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(b) The risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(c) The secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(d) The secured party may use or operate the collateral:

1. For the purpose of preserving the collateral or its value;

2. As permitted by an order of a court having competent jurisdiction; or

3. Except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(3) Except as otherwise provided in subsection (4), a secured party having possession of collateral or control of collateral under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071:

(a) May hold as additional security any proceeds, except money or funds, received from the collateral;

(b) Shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(c) May create a security interest in the collateral.

(4) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(a) Subsection (1) does not apply unless the secured party is entitled under an agreement:

1. To charge back uncollected collateral; or

2. Otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(b) Subsections (2) and (3) do not apply.

679.2081 Additional duties of secured party having control of collateral.—

(1) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within 10 days after receiving an authenticated demand by the debtor:

(a) A secured party having control of a deposit account under s. 679.1041(1)(b) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(b) A secured party having control of a deposit account under s. 679.1041(1)(c) shall:

1. Pay the debtor the balance on deposit in the deposit account; or

2. Transfer the balance on deposit into a deposit account in the debtor's name;

(c) A secured party, other than a buyer, having control of electronic chattel paper under s. 679.1051 shall:

1. Communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

2. If the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

3. Take appropriate action to enable the debtor or the debtor's designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;

(d) A secured party having control of investment property under s. 678.1061(4)(b) or s. 679.1061(2) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and

(e) A secured party having control of a letter-of-credit right under s. 679.1071 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

679.209 Duties of secured party if account debtor has been notified of assignment.—

(1) Except as otherwise provided in subsection (3), this section applies if:

(a) There is no outstanding secured obligation; and

(b) The secured party is not committed to make advances, incur obligations, or otherwise give value.

(2) Within 10 days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under s. 679.4061(1) an authenticated record that releases the account debtor from any further obligation to the secured party.

(3) This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

679.210 Request for accounting; request regarding list of collateral or statement of account.—

(1) In this section, the term:

(a) "Request" means a record of a type described in paragraph (b), paragraph (c), or paragraph (d).

(b) "Request for an accounting" means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(c) "Request regarding a list of collateral" means a record authenticated by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(d) "Request regarding a statement of account" means a record authenticated by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(e) "Reasonably identifying the transaction or relationship" means that the request provides information sufficient for the person to identify the transaction or relationship and respond to the request. Pursuant to s. 679.603(1), a secured party and debtor may determine by agreement the standards for measuring fulfillment of this duty.

(f) "Person" means a person or entity that is or was a secured party or otherwise claims or has claimed an interest in the collateral.

(2) Subject to subsections (3), (4), (5), and (6), a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within 14 days after receipt:

(a) In the case of a request for an accounting, by authenticating and sending to the debtor an accounting; and

(b) In the case of a request regarding a list of collateral or a request regarding a statement of account, by authenticating and sending to the debtor an approval or correction.

(3) A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an authenticated record including a statement to that effect within 14 days after receipt.

(4) A person who receives a request regarding a list of collateral, claims no interest in the collateral when the request is received, and claimed an interest in the collateral at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

(a) Disclaiming any interest in the collateral; and

(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(5) A person who receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when the request is received, and claimed an interest in the obligations at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

(a) Disclaiming any interest in the obligations; and

(b) If known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(6) A debtor is entitled under this section without charge to one response to a request for an accounting or a request regarding a statement of account for each secured obligation during any 6-month period. A debtor in a consumer transaction is entitled to a single response to a request regarding a list of collateral, for a transaction other than a consumer transaction, without charge during any 6-month period. The secured party may require payment of a charge not exceeding $25 for each additional response to a request for an accounting, a request regarding a statement of account, or a request regarding a list of collateral for a consumer transaction. To the extent provided in an authenticated record, the secured party may require the payment of reasonable expenses, including attorney's fees, reasonably incurred in providing a response to a request regarding a list of collateral for a transaction other than a consumer transaction under this section; otherwise, the secured party may not charge more than $25 for each request regarding a list of collateral. Excluding a request related to a proposed satisfaction of the secured obligation, a secured party is not required to respond to more than 12 of each of the permitted requests in any 12-month period.

Section 3. Part III of chapter 679, Florida Statutes, consisting of sections 679.301, 679.302, 679.303, 679.304, 690.305, 679.306, 679.307, 679.308, 679.309, 679.310, 679.311, 679.312, 679.313, 679.314, 679.315, 679.316, 679.317, and 679.318, Florida Statutes, is repealed and a new part III of that chapter, consisting of sections 679.3011, 679.3021, 679.3031, 679.3041, 690.3051, 679.3061, 679.3071, 679.3081, 679.3091, 679.3101, 679.3111, 679.3121, 679.3131, 679.3141, 679.3151, 679.3161, 679.3171, 679.3181, 679.319, 679.320, 679.321, 679.322, 679.323, 679.324, 679.325, 679.326, 679.327, 679.328, 679.329, 679.330, 679.331, 679.332, 679.333, 679.334, 679.335, 679.336, 679.337, 679.3381, 679.339, 679.340, 679.341, and 679.342, Florida Statutes, is created to read:

PART III
PERFECTION AND PRIORITY

679.3011 Law governing perfection and priority of security interests.—Except as otherwise provided in ss. 679.1091, 679.3031, 679.3041, 679.3051, and 679.3061, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in subsection (4), while negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(a) Perfection of a security interest in the goods by filing a fixture filing;

(b) Perfection of a security interest in timber to be cut; and

(c) The effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

679.3021 Law governing perfection and priority of agricultural liens.—While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

679.3031 Law governing perfection and priority of security interests in goods covered by a certificate of title.—

(1) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(2) Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(3) The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

679.3041 Law governing perfection and priority of security interests in deposit accounts.—

(1) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(2) The following rules determine a bank's jurisdiction for purposes of this part:

(a) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part, this chapter, or the Uniform Commercial Code, that jurisdiction is the bank's jurisdiction.

(b) If paragraph (a) does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(c) If neither paragraph (a) nor paragraph (b) applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(d) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(e) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

679.3051 Law governing perfection and priority of security interests in investment property.—

(1) Except as otherwise provided in subsection (3), the following rules apply:

(a) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby.

(b) The local law of the issuer's jurisdiction as specified in s. 678.1101(4) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(c) The local law of the securities intermediary's jurisdiction as specified in s. 678.1101(5) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(d) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(2) The following rules determine a commodity intermediary's jurisdiction for purposes of this part:

(a) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part, this chapter, or the Uniform Commercial Code, that jurisdiction is the commodity intermediary's jurisdiction.

(b) If paragraph (a) does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(c) If neither paragraph (a) nor paragraph (b) applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(d) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(e) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(3) The local law of the jurisdiction in which the debtor is located governs:

(a) Perfection of a security interest in investment property by filing;

(b) Automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

(c) Automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

679.3061 Law governing perfection and priority of security interests in letter-of-credit rights.—

(1) Subject to subsection (3), the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(2) For purposes of this part, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in s. 675.116.

(3) This section does not apply to a security interest that is perfected only under s. 679.3081(4).

679.3071 Location of debtor.—

(1) In this section, the term "place of business" means a place where a debtor conducts its affairs.

(2) Except as otherwise provided in this section, the following rules determine a debtor's location:

(a) A debtor who is an individual is located at the individual's principal residence.

(b) A debtor that is an organization and has only one place of business is located at its place of business.

(c) A debtor that is an organization and has more than one place of business is located at its chief executive office.

(3) Subsection (2) applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (2) does not apply, the debtor is located in the District of Columbia.

(4) A person who ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (2) and (3).

(5) A registered organization that is organized under the law of a state is located in that state.

(6) Except as otherwise provided in subsection (9), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(a) In the state that the law of the United States designates, if the law designates a state of location;

(b) In the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location; or

(c) In the District of Columbia, if neither paragraph (a) nor paragraph (b) applies.

(7) A registered organization continues to be located in the jurisdiction specified by subsection (5) or subsection (6) notwithstanding:

(a) The suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or

(b) The dissolution, winding up, or cancellation of the existence of the registered organization.

(8) The United States is located in the District of Columbia.

(9) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one state.

(10) A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(11) This section applies only for purposes of this part.

679.3081 When security interest or agricultural lien is perfected; continuity of perfection.—

(1) Except as otherwise provided in this section and s. 679.3091, a security interest is perfected if it has attached and all of the applicable requirements for perfection in ss. 679.3101-679.3161 have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(2) An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in s. 679.3101 have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(3) A security interest or agricultural lien is perfected continuously if it is originally perfected by one method under this chapter and is later perfected by another method under this chapter, without an intermediate period during which it was unperfected.

(4) Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

(5) Perfection of a security interest in a right to payment or performance also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right.

(6) Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(7) Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

679.3091 Security interest perfected upon attachment.—The following security interests are perfected when they attach:

(1) A purchase-money security interest in consumer goods, except as otherwise provided in s. 679.3111(2) with respect to consumer goods that are subject to a statute or treaty described in s. 679.3111(1);

(2) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;

(3) A sale of a payment intangible;

(4) A sale of a promissory note;

(5) A security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;

(6) A security interest arising under s. 672.401, s. 672.505, s. 672.711(3), or s. 680.508(5), until the debtor obtains possession of the collateral;

(7) A security interest of a collecting bank arising under s. 674.2101;

(8) A security interest of an issuer or nominated person arising under s. 675.118;

(9) A security interest arising in the delivery of a financial asset under s. 679.2061(3);

(10) A security interest in investment property created by a broker or securities intermediary;

(11) A security interest in a commodity contract or a commodity account created by a commodity intermediary;

(12) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; and

(13) A security interest created by an assignment of a beneficial interest in a decedent's estate.

679.3101 When filing required to perfect security interest or agricultural lien; security interests and agricultural liens to which filing provisions do not apply.—

(1) Except as otherwise provided in subsection (2) and s. 679.3121(2), a financing statement must be filed to perfect all security interests and agricultural liens.

(2) The filing of a financing statement is not necessary to perfect a security interest:

(a) That is perfected under s. 679.3081(4), (5), (6), or (7);

(b) That is perfected under s. 679.3091 when it attaches;

(c) In property subject to a statute, regulation, or treaty described in s. 679.3111(1);

(d) In goods in possession of a bailee which is perfected under s. 679.3121(4)(a) or (b);

(e) In certificated securities, documents, goods, or instruments which is perfected without filing or possession under s. 679.3121(5), (6), or (7);

(f) In collateral in the secured party's possession under s. 679.3131;

(g) In a certificated security which is perfected by delivery of the security certificate to the secured party under s. 679.3131;

(h) In deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights which is perfected by control under s. 679.3141;

(i) In proceeds which is perfected under s. 679.3151; or

(j) That is perfected under s. 679.3161.

(3) If a secured party assigns a perfected security interest or agricultural lien, a filing under this chapter is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

679.3111 Perfection of security interests in property subject to certain statutes, regulations, and treaties.—

(1) Except as otherwise provided in subsection (4), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(a) A statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt s. 679.3101(1);

(b) A statute covering automobiles, trailers, mobile homes, boats, farm tractors, or the like, which provides for a security interest to be indicated on a certificate of title of such property as a condition or result of perfection, and any non-Uniform Commercial Code central filing statute; or

(c) A certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(2) Compliance with the requirements of a statute, regulation, or treaty described in paragraph (1) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this chapter. Except as otherwise provided in subsection (4) and ss. 679.3131 and 679.3161(4) and (5) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (1) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(3) Except as otherwise provided in subsection (4) and s. 679.3161(4) and (5), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (1) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this chapter.

(4) During any period in which collateral subject to a statute specified in paragraph (1)(b) is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

679.3121 Perfection of security interests in chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letter-of-credit rights, and money; perfection by permissive filing; temporary perfection without filing or transfer of possession.—

(1) A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(2) Except as otherwise provided in s. 679.3151(3) and (4) for proceeds:

(a) A security interest in a deposit account may be perfected only by control under s. 679.3141.

(b) And except as otherwise provided in s. 679.3081(4), a security interest in a letter-of-credit right may be perfected only by control under s. 679.3141.

(c) A security interest in money may be perfected only by the secured party's taking possession under s. 679.3131.

(3) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(a) A security interest in the goods may be perfected by perfecting a security interest in the document; and

(b) A security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(4) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(a) Issuance of a document in the name of the secured party;

(b) The bailee's receipt of notification of the secured party's interest; or

(c) Filing as to the goods.

(5) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession for a period of 20 days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(6) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for 20 days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(a) Ultimate sale or exchange; or

(b) Loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(7) A perfected security interest in a certificated security or instrument remains perfected for 20 days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(a) Ultimate sale or exchange; or

(b) Presentation, collection, enforcement, renewal, or registration of transfer.

(8) After the 20-day period specified in subsection (5), subsection (6), or subsection (7) expires, perfection depends upon compliance with this chapter.

679.3131 When possession by or delivery to secured party perfects security interest without filing.—

(1) Except as otherwise provided in subsection (2), a secured party may perfect a security interest in negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under s. 678.3011.

(2) With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in s. 679.3161(4).

(3) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(a) The person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(b) The person takes possession of the collateral after having authenticated a record acknowledging that the person will hold possession of collateral for the secured party's benefit.

(4) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(5) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under s. 678.3011 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(6) A person in possession of collateral is not required to acknowledge that the person holds possession for a secured party's benefit.

(7) If a person acknowledges that the person holds possession for the secured party's benefit:

(a) The acknowledgment is effective under subsection (3) or s. 678.3011(1), even if the acknowledgment violates the rights of a debtor; and

(b) Unless the person otherwise agrees or law other than this chapter otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(8) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(a) To hold possession of the collateral for the secured party's benefit; or

(b) To redeliver the collateral to the secured party.

(9) A secured party does not relinquish possession, even if a delivery under subsection (8) violates the rights of a debtor. A person to whom collateral is delivered under subsection (8) does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this chapter otherwise provides.

679.3141 Perfection by control.—

(1) A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper may be perfected by control of the collateral under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071.

(2) A security interest in deposit accounts, electronic chattel paper, or letter-of-credit rights is perfected by control under s. 679.1041, s. 679.1051, or s. 679.1071 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(3) A security interest in investment property is perfected by control under s. 679.1061 from the time the secured party obtains control and remains perfected by control until:

(a) The secured party does not have control; and

(b) One of the following occurs:

1. If the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

2. If the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

3. If the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

679.3151 Secured party's rights on disposition of collateral and in proceeds.—

(1) Except as otherwise provided in this chapter and in s. 672.403(2):

(a) A security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and

(b) A security interest attaches to any identifiable proceeds of collateral.

(2) Proceeds that are commingled with other property are identifiable proceeds:

(a) If the proceeds are goods, to the extent provided by s. 679.336; and

(b) If the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than this chapter with respect to commingled property of the type involved.

(3) A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(4) A perfected security interest in proceeds becomes unperfected on the 21st day after the security interest attaches to the proceeds unless:

(a) The following conditions are satisfied:

1. A filed financing statement covers the original collateral;

2. The proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed; and

3. The proceeds are not acquired with cash proceeds;

(b) The proceeds are identifiable cash proceeds; or

(c) The security interest in the proceeds is perfected other than under subsection (3) when the security interest attaches to the proceeds or within 20 days thereafter.

(5) If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under paragraph (4)(a) becomes unperfected at the later of:

(a) When the effectiveness of the filed financing statement lapses under s. 679.515 or is terminated under s. 679.513; or

(b) The 21st day after the security interest attaches to the proceeds.

679.3161 Continued perfection of security interest following change in governing law.—

(1) A security interest perfected pursuant to the law of the jurisdiction designated in s. 679.3011(1) or s. 679.3051(3) remains perfected until the earliest of:

(a) The time perfection would have ceased under the law of that jurisdiction;

(b) The expiration of 4 months after a change of the debtor's location to another jurisdiction; or

(c) The expiration of 1 year after a transfer of collateral to a person who thereby becomes a debtor and is located in another jurisdiction.

(2) If a security interest described in subsection (1) becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(3) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(a) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(b) Thereafter the collateral is brought into another jurisdiction; and

(c) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(4) Except as otherwise provided in subsection (5), a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(5) A security interest described in subsection (4) becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under s. 679.3111(2) or s. 679.3131 are not satisfied before the earlier of:

(a) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or

(b) The expiration of 4 months after the goods had become so covered.

(6) A security interest in deposit accounts, letter-of-credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(a) The time the security interest would have become unperfected under the law of that jurisdiction; or

(b) The expiration of 4 months after a change of the applicable jurisdiction to another jurisdiction.

(7) If a security interest described in subsection (6) becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

679.3171 Interests that take priority over or take free of security interest or agricultural lien.—

(1) A security interest or agricultural lien is subordinate to the rights of:

(a) A person entitled to priority under s. 679.322; and

(b) Except as otherwise provided in subsection (5), a person who becomes a lien creditor before the earlier of the time:

1. The security interest or agricultural lien is perfected; or

2. One of the conditions specified in s. 679.2031(2)(c) is met and a financing statement covering the collateral is filed.

(2) Except as otherwise provided in subsection (5), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(3) Except as otherwise provided in subsection (5), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(4) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(5) Except as otherwise provided in ss. 679.320 and 679.321, if a person files a financing statement with respect to a purchase-money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

679.3181 No interest retained in right to payment that is sold; rights and title of seller of account or chattel paper with respect to creditors and purchasers.—

(1) A debtor who has sold an account, chattel paper, payment intangible, or promissory note does not retain a legal or equitable interest in the collateral sold.

(2) For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a debtor who has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

679.319 Rights and title of consignee with respect to creditors and purchasers.—

(1) Except as otherwise provided in subsection (2), for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee is deemed to have rights and title to the goods identical to those the consignor had or had power to transfer.

(2) For purposes of determining the rights of a creditor of a consignee, law other than this chapter determines the rights and title of a consignee while goods are in the consignee's possession if, under this part, a perfected security interest held by the consignor would have priority over the rights of the creditor.

679.320 Buyer of goods.—

(1) Except as otherwise provided in subsection (5), a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(2) Except as otherwise provided in subsection (5), a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

(a) Without knowledge of the security interest;

(b) For value;

(c) Primarily for the buyer's personal, family, or household purposes; and

(d) Before the filing of a financing statement covering the goods.

(3) To the extent that it affects the priority of a security interest over a buyer of goods under subsection (2), the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by s. 679.3161(1) and (2).

(4) A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(5) Subsections (1) and (2) do not affect a security interest in goods in the possession of the secured party under s. 679.3131.

679.321 Licensee of general intangible and lessee of goods in ordinary course of business.—

(1) In this section, the term "licensee in ordinary course of business" means a person who becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

(2) A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

(3) A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

679.322 Priorities among conflicting security interests in and agricultural liens on same collateral.—

(1) Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

(a) Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made

or the security interest or agricultural lien is first perfected, if there is no period thereafter during which is neither filing nor perfection.

(b) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

(c) The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.

(2) For the purposes of paragraph (1)(a):

(a) The time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds; and

(b) The time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(3) Except as otherwise provided in subsection (6), a security interest in collateral which qualifies for priority over a conflicting security interest under s. 679.327, s. 679.328, s. 679.329, s. 679.330, or s. 679.331 also has priority over a conflicting security interest in:

(a) Any supporting obligation for the collateral; and

(b) Proceeds of the collateral if:

1. The security interest in proceeds is perfected;

2. The proceeds are cash proceeds or of the same type as the collateral; and

3. In the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(4) Subject to subsection (5) and except as otherwise provided in subsection (6), if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(5) Subsection (4) applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

(6) Subsections (1) through (5) are subject to:

(a) Subsection (7) and the other provisions of this part;

(b) Section 674.2101 with respect to a security interest of a collecting bank;

(c) Section 675.118 with respect to a security interest of an issuer or nominated person; and

(d) Section 679.1101 with respect to a security interest arising under chapter 672 or chapter 680.

(7) A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

679.323 Future advances.—

(1) Except as otherwise provided in subsection (3), for purposes of determining the priority of a perfected security interest under s. 679.322(1)(a), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(a) Is made while the security interest is perfected only:

1. Under s. 679.3091 when it attaches; or

2. Temporarily under s. 679.3121(5), (6), or (7); and

(b) Is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under s. 679.3091 or s. 679.3121(5), (6), or (7).

(2) Except as otherwise provided in subsection (3), a security interest is subordinate to the rights of a person who becomes a lien creditor to the extent that the security interest secures an advance made more than 45 days after the person becomes a lien creditor unless the advance is made:

(a) Without knowledge of the lien; or

(b) Pursuant to a commitment entered into without knowledge of the lien.

(3) Subsections (1) and (2) do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor.

(4) Except as otherwise provided in subsection (5), a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the buyer's purchase; or

(b) Forty-five days after the purchase.

(5) Subsection (4) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the 45-day period.

(6) Except as otherwise provided in subsection (7), a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

(a) The time the secured party acquires knowledge of the lease; or

(b) Forty-five days after the lease contract becomes enforceable.

(7) Subsection (6) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.

679.324 Priority of purchase-money security interests.—

(1) Except as otherwise provided in subsection (7), a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in s. 679.327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within 20 days thereafter.

(2) Subject to subsection (3) and except as otherwise provided in subsection (7), a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in s. 679.330, and, except as otherwise provided in s. 679.327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(a) The purchase-money security interest is perfected when the debtor receives possession of the inventory;

(b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(c) The holder of the conflicting security interest receives the notification within 5 years before the debtor receives possession of the inventory; and

(d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(3) Paragraphs (2)(b), (c), and (d) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(b) If the purchase-money security interest is temporarily perfected without filing or possession under s. 679.3121(6), before the beginning of the 20-day period thereunder.

(4) Subject to subsection (5) and except as otherwise provided in subsection (7), a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in s. 679.327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(a) The purchase-money security interest is perfected when the debtor receives possession of the livestock;

(b) The purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(c) The holder of the conflicting security interest receives the notification within 6 months before the debtor receives possession of the livestock; and

(d) The notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(5) Paragraphs (4)(b), (c), and (d) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(a) If the purchase-money security interest is perfected by filing, before the date of the filing; or

(b) If the purchase-money security interest is temporarily perfected without filing or possession under s. 679.3121(6), before the beginning of the 20-day period thereunder.

(6) Except as otherwise provided in subsection (7), a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in s. 679.327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(7) If more than one security interest qualifies for priority in the same collateral under subsection (1), subsection (2), subsection (4), or subsection (6):

(a) A security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(b) In all other cases, s. 679.322(1) applies to the qualifying security interests.

679.325 Priority of security interests in transferred collateral.—

(1) Except as otherwise provided in subsection (2), a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

(a) The debtor acquired the collateral subject to the security interest created by the other person;

(b) The security interest created by the other person was perfected when the debtor acquired the collateral; and

(c) There is no period thereafter during which the security interest is unperfected.

(2) Subsection (1) subordinates a security interest only if the security interest:

(a) Otherwise would have priority solely under s. 679.322(1) or s. 679.324; or

(b) Arose solely under s. 672.711(3) or s. 680.508(5).

679.326 Priority of security interests created by new debtor.—

(1) Subject to subsection (2), a security interest created by a new debtor which is perfected by a filed financing statement that is effective solely under s. 679.508 in collateral in which a new debtor has or acquires rights is subordinate to a security interest in the same collateral which is perfected other than by a filed financing statement that is effective solely under s. 679.508.

(2) The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under s. 679.508. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

679.327 Priority of security interests in deposit account.—The following rules govern priority among conflicting security interests in the same deposit account:

(1) A security interest held by a secured party having control of the deposit account under s. 679.1041 has priority over a conflicting security interest held by a secured party that does not have control.

(2) Except as otherwise provided in subsections (3) and (4), security interests perfected by control under s. 679.3141 rank according to priority in time of obtaining control.

(3) Except as otherwise provided in subsection (4), a security interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.

(4) A security interest perfected by control under s. 679.1041(1)(c) has priority over a security interest held by the bank with which the deposit account is maintained.

679.328 Priority of security interests in investment property.—The following rules govern priority among conflicting security interests in the same investment property:

(1) A security interest held by a secured party having control of investment property under s. 679.1061 has priority over a security interest held by a secured party that does not have control of the investment property.

(2) Except as otherwise provided in subsections (3) and (4), conflicting security interests held by secured parties each of which has control under s. 679.1061 rank according to priority in time of:

(a) If the collateral is a security, obtaining control;

(b) If the collateral is a security entitlement carried in a securities account and:

1. If the secured party obtained control under s. 678.1061(4)(a), the secured party's becoming the person for which the securities account is maintained;

2. If the secured party obtained control under s. 678.1061(4)(b), the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account; or

3. If the secured party obtained control through another person under s. 678.1061(4)(c), the time on which priority would be based under this paragraph if the other person were the secured party; or

(c) If the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in

s. 679.1061(2)(b) with respect to commodity contracts carried or to be carried with the commodity intermediary.

(3) A security interest held by a securities intermediary in a security entitlement or a securities account maintained with the securities intermediary has priority over a conflicting security interest held by another secured party.

(4) A security interest held by a commodity intermediary in a commodity contract or a commodity account maintained with the commodity intermediary has priority over a conflicting security interest held by another secured party.

(5) A security interest in a certificated security in registered form which is perfected by taking delivery under s. 679.3131(1) and not by control under s. 679.3141 has priority over a conflicting security interest perfected by a method other than control.

(6) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary which are perfected without control under s. 679.1061 rank equally.

(7) In all other cases, priority among conflicting security interests in investment property is governed by ss. 679.322 and 679.323.

679.329 Priority of security interests in letter-of-credit right.—The following rules govern priority among conflicting security interests in the same letter-of-credit right:

(1) A security interest held by a secured party having control of the letter-of-credit right under s. 679.1071 has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(2) Security interests perfected by control under s. 679.3141 rank according to priority in time of obtaining control.

679.330 Priority of purchaser of chattel paper or instrument.—

(1) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(a) In good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under s. 679.1051; and

(b) The chattel paper does not indicate that it has been assigned to an identified assignee other than the purchaser.

(2) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under s. 679.1051 in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(3) Except as otherwise provided in s. 679.327, a purchaser having priority in chattel paper under subsection (1) or subsection (2) also has priority in proceeds of the chattel paper to the extent that:

(a) Section 679.322 provides for priority in the proceeds; or

(b) The proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(4) Except as otherwise provided in s. 679.331(1), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(5) For purposes of subsections (1) and (2), the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(6) For purposes of subsections (2) and (4), if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

679.331 Priority of rights of purchasers of instruments, documents, and securities under other articles; priority of interests in financial assets and security entitlements under chapter 678.—

(1) This chapter does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in chapters 673, 677, and 678.

(2) This chapter does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of an adverse claim under chapter 678.

(3) Filing under this chapter does not constitute notice of a claim or defense to the holders, purchasers, or persons described in subsections (1) and (2).

679.332 Transfer of money; transfer of funds from deposit account.—

(1) A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

(2) A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

679.333 Priority of certain liens arising by operation of law.—

(1) In this section, the term "possessory lien" means an interest, other than a security interest or an agricultural lien:

(a) Which secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business;

(b) Which is created by statute or rule of law in favor of the person; and

(c) The effectiveness of which depends on the person's possession of the goods.

(2) A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

679.334 Priority of security interests in fixtures and crops.—

(1) A security interest under this chapter may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this chapter in ordinary building materials incorporated into an improvement on land.

(2) This chapter does not prevent creation of an encumbrance upon fixtures under real property law.

(3) A security interest in goods which are or become fixtures is invalid against any person with an interest in the real property at the time the security interest in the goods is perfected or at the time the goods are affixed to the real property, whichever occurs later, unless such person has consented to the security interest or disclaimed an interest in the goods as fixtures.

(4) A security interest in goods which are or become fixtures takes priority as to the goods over the claims of all persons acquiring an interest in the real property subsequent to the perfection of such security interest or the affixing of the goods to the real property, whichever occurs later.

(5) A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the security interest is:

(a) Created in a manufactured home in a manufactured-home transaction; and

(b) Perfected pursuant to a statute described in s. 679.3111(1)(b).

(6) A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

(7) Subsection (6) prevails over any inconsistent provisions of the statutes.

679.335 Accessions.—

(1) A security interest may be created in an accession and continues in collateral that becomes an accession.

(2) If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(3) Except as otherwise provided in subsection (4), the other provisions of this part determine the priority of a security interest in an accession.

(4) A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under s. 679.3111(2).

(5) After default, subject to part VI, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(6) A secured party that removes an accession from other goods under subsection (5) shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

679.336 Commingled goods.—

(1) In this section, the term "commingled goods" means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

(2) A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

(3) If collateral becomes commingled goods, a security interest attaches to the product or mass.

(4) If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection (3) is perfected.

(5) Except as otherwise provided in subsection (6), the other provisions of this part determine the priority of a security interest that attaches to the product or mass under subsection (3).

(6) If more than one security interest attaches to the product or mass under subsection (3), the following rules determine priority:

(a) A security interest that is perfected under subsection (4) has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

(b) If more than one security interest is perfected under subsection (4), the security interests rank equally in proportion to value of the collateral at the time it became commingled goods.

679.337 Priority of security interests in goods covered by certificate of title.—If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this state issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they may be subject to security interests not shown on the certificate:

(1) A buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and

(2) The security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under s. 679.3111(2), after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

679.338 Priority of security interest or agricultural lien perfected by filed financing statement providing certain incorrect information.—If a security interest or agricultural lien is perfected by a filed financing statement providing information described in s. 679.516(2)(e) which is incorrect at the time the financing statement is filed:

(1) The security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) A purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of chattel paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

679.339 Priority subject to subordination.—This chapter does not preclude subordination by agreement by a person entitled to priority.

679.340 Effectiveness of right of recoupment or set-off against deposit account.—

(1) Except as otherwise provided in subsection (3), a bank with which a deposit account is maintained may exercise any right of recoupment or set-off against a secured party that holds a security interest in the deposit account.

(2) Except as otherwise provided in subsection (3), the application of this chapter to a security interest in a deposit account does not affect a right of recoupment or set-off of the secured party as to a deposit account maintained with the secured party.

(3) The exercise by a bank of a set-off against a deposit account is ineffective against a secured party that holds a security interest in the deposit account which is perfected by control under s. 679.1041(1)(c), if the set-off is based on a claim against the debtor.

679.341 Bank's rights and duties with respect to deposit account.—Except as otherwise provided in s. 679.340(3), and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

(1) The creation, attachment, or perfection of a security interest in the deposit account;

(2) The bank's knowledge of the security interest; or

(3) The bank's receipt of instructions from the secured party.

679.342 Bank's right to refuse to enter into or disclose existence of control agreement.—This chapter does not require a bank to enter into an agreement of the kind described in s. 679.1041(1)(b), even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

Section 4. Part IV of chapter 679, Florida Statutes, consisting of sections 679.401, 679.4011, 679.402, 679.403, 679.404, 679.405, 679.406, 679.407, and 679.408, Florida Statutes, is repealed and a new part IV, consisting of sections 679.40111, 679.4021, 679.4031, 679.4041,

679.4051, 679.4061, 679.4071, 679.4081, and 679.409, Florida Statutes, is created to read:

PART IV
RIGHTS OF THIRD PARTIES

679.40111 Alienability of debtor's rights.—

(1) Except as otherwise provided in subsection (2) and ss. 679.4061, 679.4071, 679.4081, and 679.409, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this chapter.

(2) An agreement between the debtor and secured party which prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

679.4021 Secured party not obligated on contract of debtor or in tort.—The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

679.4031 Agreement not to assert defenses against assignee.—

(1) In this section, the term "value" has the meaning provided in s. 673.3031(1).

(2) Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

(a) For value;

(b) In good faith;

(c) Without notice of a claim of a property or possessory right to the property assigned; and

(d) Without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under s. 673.3031(1).

(3) Subsection (2) does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under s. 673.3031(2).

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this chapter requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and the record does not include such a statement:

(a) The record has the same effect as if the record included such a statement; and

(b) The account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

(5) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(6) Except as otherwise provided in subsection (4), this section does not displace law other than this chapter which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

679.4041 Rights acquired by assignee; claims and defenses against assignee.—

(1) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (2) through (5), the rights of an assignee are subject to:

(a) All terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(b) Any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.

(2) Subject to subsection (3) and except as otherwise provided in subsection (4), the claim of an account debtor against an assignor may be asserted against an assignee under subsection (1) only to reduce the amount the account debtor owes.

(3) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) In a consumer transaction, if a record evidences the account debtor's obligation, law other than this chapter requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(5) This section does not apply to an assignment of a health-care-insurance receivable.

679.4051 Modification of assigned contract.—

(1) A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (2) through (4).

(2) Subsection (1) applies to the extent that:

(a) The right to payment or a part thereof under an assigned contract has not been fully earned by performance; or

(b) The right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under s. 679.4061(1).

(3) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(4) This section does not apply to an assignment of a health-care-insurance receivable.

679.4061 Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.—

(1) Subject to subsections (2) through (9), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(2) Subject to subsection (8), notification is ineffective under subsection (1):

(a) If it does not reasonably identify the rights assigned;

(b) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a

person other than the seller and the limitation is effective under law other than this chapter; or

(c) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

1. Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

2. A portion has been assigned to another assignee; or

3. The account debtor knows that the assignment to that assignee is limited.

(3) Subject to subsection (8), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (1).

(4) Except as otherwise provided in subsection (5) and ss. 680.303 and 679.4071, and subject to subsection (8), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(a) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(5) Subsection (4) does not apply to the sale of a payment intangible or promissory note.

(6) Except as otherwise provided in ss. 680.303 and 679.4071 and subject to subsections (8) and (9), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(a) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(7) Subject to subsection (8), an account debtor may not waive or vary its option under paragraph (2)(c).

(8) This section is subject to law other than this chapter which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes. Subsection (6) does not apply to the creation, attachment, perfection, or enforcement of a security interest in:

(a) A claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. subsection 104(a)(1) or (2).

(b) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. subsection 1396p(d)(4).

(c) The interest of a debtor who is a natural person in unemployment, alimony, disability, pension, or retirement benefits or victim compensation funds.

(d) The interest of a debtor who is a natural person in other benefits which are designated solely for his or her maintenance, support, or education, the assignability of which is expressly prohibited or restricted by any statute.

(9) This section does not apply to an assignment of a health-care-insurance receivable.

(10) This section prevails over any inconsistent statute, rule, or regulation.

679.4071 Restrictions on creation or enforcement of security interest in leasehold interest or in lessor's residual interest.—

(1) Except as otherwise provided in subsection (2), a term in a lease agreement is ineffective to the extent that it:

(a) Prohibits, restricts, or requires the consent of a party to the lease to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

(b) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(2) Except as otherwise provided in s. 680.303(7), a term described in paragraph (1)(b) is effective to the extent that there is:

(a) A transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(b) A delegation of a material performance of either party to the lease contract in violation of the term.

(3) The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of s. 680.303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

679.4081 Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective.—

(1) Except as otherwise provided in subsection (2), a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(a) Would impair the creation, attachment, or perfection of a security interest; or

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(2) Subsection (1) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(3) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account

debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(a) Would impair the creation, attachment, or perfection of a security interest; or

(b) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(4) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (3) would be effective under law other than this chapter but is ineffective under subsection (1) or subsection (3), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(a) Is not enforceable against the person obligated on the promissory note or the account debtor;

(b) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(c) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(d) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(e) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(f) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(5) This section prevails over any inconsistent statute, rule, or regulation.

(6) Subsection (3) does not apply to the creation, attachment, perfection, or enforcement of a security interest in:

(a) A claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. subsection 104(a)(1) or (2).

(b) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. subsection 1396p(d)(4).

(c) The interest of a debtor who is a natural person in unemployment, alimony, disability, pension, or retirement benefits or victim compensation funds.

(d) The interest of a debtor who is a natural person in other benefits which are designated solely for his or her maintenance, support, or education, the assignability of which is expressly prohibited or restricted by any statute.

679.409 Restrictions on assignment of letter-of-credit rights ineffective.—

(1) A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

(a) Would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or

(b) Provides that the assignment or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(2) To the extent that a term in a letter of credit is ineffective under subsection (1) but would be effective under law other than this chapter or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

(a) Is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

(b) Imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

(c) Does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

Section 5. *(1) The Legislature finds that it is in the best interest of the citizens and businesses of this state to adopt Part V of Revised Article 9 of the Uniform Commercial Code as proposed by the National Conference of Commissioners on Uniform State Law, "revised Article 9," subject to specific modifications, as revised chapter 679, Florida Statutes. Such revised Article 9 almost exclusively affects secured transactions and the relationships between and among secured creditors, debtors, other creditors, and purchasers of personal property subject to a security interest. Both individuals and business entities are intended to benefit from the enactment of revised Article 9.*

(2) The Legislature also finds that, among other things, revised Article 9 contemplates a more straightforward and efficient system for documenting the perfection, amendment, continuance, termination, assignment, and transfer of security interests and requires less governmental involvement than necessary under existing law. Revised Article 9 suggests the possibility that states may delegate their historical administrative and operational responsibilities over financing statement filings to a nongovernmental entity. This principle complements the legislative policy of reducing government's detailed regulation and involvement with private commerce and business transactions. Consistent with other revisions to current chapter 679, Florida Statutes, being adopted by this act, the requirement for exclusive administration and operation by this state of the system of filing and maintaining documents evidencing secured transactions no longer exists. However, the carrying out of the duties of the filing office and filing officer are very important to the uninterrupted flow of secured transactions and the Secretary of State shall retain oversight over the private filing agency to which the filing office and filing officer duties under revised Article 9, as revised chapter 679, Florida Statutes, may be delegated.

Section 6. Part V of chapter 679, Florida Statutes, consisting of sections 679.501, 679.502, 679.503, 679.504, 679.505, 679.506, and 679.507, Florida Statutes, is repealed and a new part V, consisting of sections 679.5011, 679.5021, 679.5031. 679.5041, 679.5051, 679.5061, 679.5071, 679.508, 679.509, 679.510, 679.511, 679.512, 679.513, 671.514, 679.515, 679.516, 679.517, 679.518, 679.519, 679.520, 679.521, 679.522, 679.523, 679.524, 679.525, 679.526, and 679.527, Florida Statutes, is created to read:

PART V
FILING

679.5011 Filing office.—

(1) Except as otherwise provided in subsection (2), the office in which to file a financing statement to perfect a security interest or agricultural lien is:

(a) The office of the clerk of the circuit court, if:

1. The collateral is as-extracted collateral or timber to be cut; or

2. The collateral is goods that are or are to become fixtures in this state, in which event the financing statement shall be filed as a fixture filing.

(b) The Florida Secured Transaction Registry, in accordance with ss. 679.3011-679.3071, and in all other cases.

(2) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the Office of the Secretary of State, or the filing office authorized by s. 697.527 to accept filings for the Florida Secured Transaction Registry. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

679.5021 Contents of financing statement; record of mortgage as financing statement; time of filing financing statement.—

(1) Subject to subsection (2), a financing statement is sufficient only if it:

(a) Provides the name of the debtor;

(b) Provides the name of the secured party or a representative of the secured party; and

(c) Indicates the collateral covered by the financing statement.

(2) Except as otherwise provided in s. 679.5011(2), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or that is filed as a fixture filing and covers goods that are or are to become fixtures, must comply with the requirements of subsection (1) and also:

(a) Indicate that it covers this type of collateral;

(b) Indicate that it is to be filed in the real property records;

(c) Provide a description of the real property to which the collateral is related; and

(d) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

(3) A record of a mortgage satisfying the requirements of chapter 697 is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(a) The record of a mortgage indicates the goods or accounts that it covers;

(b) The goods are or are to become fixtures related to the real property described in the record of a mortgage or the collateral is related to the real property described in the mortgage and is as-extracted collateral or timber to be cut;

(c) The record of a mortgage complies with the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

(d) The record of a mortgage is recorded as required by chapter 697.

(4) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

679.5031 Name of debtor and secured party.—

(1) A financing statement sufficiently provides the name of the debtor:

(a) If the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the public record of the debtor's jurisdiction of organization which shows the debtor to have been organized;

(b) If the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate;

(c) If the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:

1. Provides the name, if any, specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish a debtor from other trusts having one or more of the same settlors; and

2. Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and

(d) In other cases:

1. If the debtor has a name, only if it provides the individual or organizational name of the debtor; and

2. If the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor.

(2) A financing statement that provides the name of the debtor in accordance with subsection (1) is not rendered ineffective by the absence of:

(a) A trade name or other name of the debtor; or

(b) Unless required under subparagraph (1)(d)2., names of partners, members, associates, or other persons comprising the debtor.

(3) A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(4) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(5) A financing statement may provide the name of more than one debtor and the name of more than one secured party.

679.5041 Indication of collateral.—A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

(1) A description of the collateral pursuant to s. 679.1081; or

(2) If the security agreement grants a security interest in all of the debtor's personal property and such property is reasonably identified in the security agreement, as permitted by s. 679.1081, an indication that the financing statement covers all assets or all personal property.

679.5051 Filing and compliance with other statutes and treaties for consignments, leases, bailments, and other transactions.—

(1) A consignor, lessor, or bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in s. 679.3111(1), using the terms "consignor," "consignee," "lessor," "lessee," "bailor," "bailee," "licensor," "licensee," "owner," "registered owner," "buyer," "seller," or words of similar import, instead of the terms "secured party" and "debtor."

(2) This part applies to the filing of a financing statement under subsection (1) and, as appropriate, to compliance that is equivalent to filing a financing statement under s. 679.3111(2), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

679.5061 Effect of errors or omissions.—

(1) A financing statement substantially complying with the requirements of this part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(2) Except as otherwise provided in subsection (3), a financing statement that fails sufficiently to provide the name of the debtor in accordance with s. 679.5031(1) is seriously misleading.

(3) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with s. 679.5031(1), the name provided does not make the financing statement seriously misleading.

(4) For purposes of s. 679.508(2), the term "debtor's correct name" as used in subsection (3) means the correct name of the new debtor.

679.5071 Effect of certain events on effectiveness of financing statement.—

(1) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(2) Except as otherwise provided in subsection (3) and s. 679.508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under the standard set forth in s. 679.5061.

(3) If a debtor so changes its name that a filed financing statement becomes seriously misleading under the standard set forth in s. 679.5061:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within 4 months after, the change; and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than 4 months after the change, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within 4 months after the change.

679.508 Effectiveness of financing statement if new debtor becomes bound by security agreement.—

(1) Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(2) If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (1) to be seriously misleading under the standard set forth in s. 679.5061:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within 4 months after, the new debtor becomes bound under s. 679.2031(4); and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than 4 months after the new debtor becomes bound under s. 679.2031(4) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(3) This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under s. 679.5071(1).

679.509 Persons entitled to file a record.—

(1) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(a) The debtor authorizes the filing in an authenticated record or pursuant to subsection (2) or subsection (3); or

(b) The person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(2) By authenticating or becoming bound as a debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(a) The collateral described in the security agreement; and

(b) Property that becomes collateral under s. 679.3151(1)(b), whether or not the security agreement expressly covers proceeds.

(3) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(a) The secured party of record authorizes the filing; or

(b) The amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by s. 679.5131(1) or (3).

(4) If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (3).

(5) By acquiring collateral in which a security interest or agricultural lien continues under s. 679.3151(1), a debtor authorizes the filing of an initial financing, and an amendment, covering the collateral and property that become collateral under s. 679.3151(1)(b).

679.510 Effectiveness of filed record.—

(1) Subject to subsection (3), a filed record is effective only to the extent that it was filed by a person who may file it under s. 679.509.

(2) A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

(3) If a person may file a termination statement only under s. 679.509(3)(b), the filed termination statement is effective only if the debtor authorizes the filing and the termination statement indicates that the debtor authorized it to be filed.

(4) A continuation statement that is not filed within the 6-month period prescribed by s. 679.515(4) is ineffective.

679.511 Secured party of record.—

(1) A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under s. 679.514(1), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(2) If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under s. 679.514(2), the assignee named in the amendment is a secured party of record.

(3) A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

679.512 Amendment of financing statement.—

(1) Subject to s. 679.509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (5), otherwise amend the information provided in, a financing statement by filing an amendment that:

(a) Identifies, by its correct file number, if any, the initial financing statement to which the amendment relates, and the name of the debtor and the secured party of record; and

(b) If the amendment relates to an initial financing statement filed or recorded in a filing office described in s. 679.5011(1)(a), provides the information specified in s. 679.5021(2), the official records book and page number of the initial financing statement to which the amendment relates, and the name of the debtor and secured party of record.

(2) Except as otherwise provided in s. 679.515, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(3) A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(4) A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(5) An amendment is ineffective to the extent it:

(a) Purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

(b) Purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

679.513 Termination statement.—

(1) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(a) There is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) The debtor did not authorize the filing of the initial financing statement.

(2) To comply with subsection (1), a secured party shall cause the secured party of record to file the termination statement:

(a) Within 1 month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) If earlier, within 20 days after the secured party receives an authenticated demand from a debtor.

(3) In cases not governed by subsection (1), within 20 days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(a) Except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(b) The financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(c) The financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(d) The debtor did not authorize the filing of the initial financing statement.

(4) Except as otherwise provided in s. 679.510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in s. 679.510, for purposes of ss. 679.519(7) and 679.522(1), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

679.514 Assignment of powers of secured party of record.—

(1) Except as otherwise provided in subsection (3), an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

(2) Except as otherwise provided in subsection (3), a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

(a) Identifies, by its correct file number and the secured party of record, the initial financing statement to which it relates;

(b) Provides the names of the assignor and debtor; and

(c) Provides the name and mailing address of the assignee.

(3) An assignment of record of a security interest in a fixture covered by a real property mortgage that is effective as a fixture filing under s. 679.5021(3) may be made only by an assignment of record of the mortgage in the manner provided by s. 701.02.

679.515 Duration and effectiveness of financing statement; effect of lapsed financing statement.—

(1) Except as otherwise provided in subsections (2), (5), (6), and (7), a filed financing statement is effective for a period of 5 years after the date of filing.

(2) Except as otherwise provided in subsections (5), (6), and (7), an initial financing statement filed in connection with a manufactured-home transaction is effective for a period of 30 years after the date of filing if it indicates that it is filed in connection with a manufactured-home transaction.

(3) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless, before the lapse, a continuation statement is filed pursuant to subsection (4). Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected without filing. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(4) A continuation statement may be filed only within 6 months before the expiration of the 5-year period specified in subsection (1) or the 30-year period specified in subsection (2), whichever is applicable.

(5) Except as otherwise provided in s. 679.510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of 5 years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the 5-year period, the financing statement lapses in the same manner as provided in subsection (3), unless, before the lapse, another continuation statement is filed pursuant to subsection (4). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(6) If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.

(7) A record of a mortgage satisfying the requirements of chapter 697 that is effective as a fixture filing under s. 679.5021(3) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

679.516 What constitutes filing; effectiveness of filing.—

(1) Except as otherwise provided in subsection (2), communication of a record to a filing office, tender of the processing fee, or acceptance of the record by the filing office constitutes filing.

(2) Filing does not occur with respect to a record that a filing office refuses to accept because:

(a) The record is not communicated by a method or medium of communication authorized by the filing office;

(b) An amount equal to or greater than the applicable processing fee is not tendered;

(c) The record does not include the notation required by s. 201.22 indicating that the excise tax required by chapter 201 had been paid or is not required;

(d) The filing office is unable to index the record because:

1. In the case of an initial financing statement, the record does not provide an organization's name or, if an individual, the individual's last name and first name or initial;

2. In the case of an amendment or correction statement, the record:

a. Does not correctly identify the initial financing statement as required by s. 679.512 or s. 679.518, as applicable; or

b. Identifies an initial financing statement the effectiveness of which has lapsed under s. 679.515;

3. In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name and first name or initial; or

4. In the case of a record filed or recorded in the filing office described in s. 679.5011(1)(a), the record does not provide a sufficient description of the real property to which it relates;

(e) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide an organization's name or, if an individual, the individual's last name and first name or initial and mailing address for the secured party of record;

(f) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

1. Provide a mailing address for the debtor;

2. Indicate whether the debtor is an individual or an organization; or

3. If the financing statement indicates that the debtor is an organization, provide:

a. A type of organization for the debtor;

b. A jurisdiction of organization for the debtor; or

c. An organizational identification number for the debtor or indicate that the debtor has none;

(g) In the case of an assignment reflected in an initial financing statement under s. 679.514(1) or an amendment filed under s. 679.514(2), the record does not provide an organization's name or, if an individual, the individual's last name and first name or initial and mailing address for the assignee;

(h) In the case of a continuation statement, the record is not filed within the 6-month period prescribed by s. 679.515(4);

(i) In the case of an initial financing statement or an amendment, which amendment requires the inclusion of a collateral statement but the record does not provide any, the record does not provide a statement of collateral; or

(3) For purposes of subsection (2):

(a) A record does not provide information if the filing office is unable to read or decipher the information; and

(b) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by s. 679.512, s. 679.514, or s. 679.518, is an initial financing statement.

(4) A record that is communicated to the filing office with tender of the filing fee, but that the filing office refuses to accept for a reason other than one set forth in subsection (2), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

679.517 Effect of indexing errors.—The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

679.518 Claim concerning inaccurate or wrongfully filed record.—

(1) A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(2) A correction statement must:

(a) Identify the record to which it relates by the file number assigned to the initial financing statement, the debtor, and the secured party of record to which the record relates;

(b) Indicate that it is a correction statement; and

(c) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(3) The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.

679.519 Numbering, maintaining, and indexing records; communicating information provided in records.—

(1) For each record filed in a filing office, the filing office shall, in accordance with such other laws applicable to the recording of instruments by a filing office described in s. 679.5011(1)(a):

(a) Assign a unique number to the filed record;

(b) Create a record that bears the number assigned to the filed record and the date and time of filing;

(c) Maintain the filed record for public inspection; and

(d) Index the filed record in accordance with subsections (3), (4), and (5).

(2) Except as otherwise provided in subsection (9), a file number assigned after January 1, 2002, must include a digit that:

(a) Is mathematically derived from or related to the other digits of the file number; and

(b) Enables the filing office to detect whether a number communicated as the file number includes a single-digit or transpositional error.

(3) Except as otherwise provided in subsections (4) and (5), the filing office shall:

(a) Index an initial financing statement according to the name of the debtor and shall index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

(b) Index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(4) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index it:

(a) Under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

(b) To the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or,

if indexing is by description, as if the financing statement were a mortgage of the real property described.

(5) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under s. 679.514(1) or an amendment filed under s. 679.514(2):

(a) Under the name of the assignor as grantor; and

(b) To the extent that the law of this state provides for indexing the assignment of a real property mortgage under the name of the assignee, under the name of the assignee.

(6) The filing office shall maintain a capability for:

(a) Retrieving a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

(b) Associating and retrieving with one another an initial financing statement and each filed record relating to the initial financing statement.

(7) The filing office may not remove a debtor's name from the index until 1 year after the effectiveness of a financing statement naming the debtor lapses under s. 679.515 with respect to all secured parties of record.

(8) Except as otherwise provided in subsection (9), the filing office shall perform the acts required by subsections (1) through (5) at the time and in the manner prescribed by any filing-office rule, but not later than 3 business days after the filing office receives the record in question, if practical.

(9) Subsections (1), (2), and (8) do not apply to a filing office described in s. 679.5011(1)(a).

679.520 Acceptance and refusal to accept record.—

(1) A filing office shall refuse to accept a record for filing for a reason set forth in s. 679.516(2) and may refuse to accept a record for filing only for a reason set forth in s. 679.516(2).

(2) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by any filing-office rule but, in the case of a filing office described in s. 679.5011(1)(b), in no event more than 3 business days after the filing office receives the record, if practical.

(3) A filed financing statement satisfying s. 679.5021(1) and (2) is effective, even if the filing office is required to refuse to accept it for filing under subsection (1). However, s. 679.338 applies to a filed financing statement providing information described in s. 679.516(2)(e) which is incorrect at the time the financing statement is filed.

(4) If a record communicated to a filing office provides information that relates to more than one debtor, this part applies as to each debtor separately.

679.521 Uniform form of written financing statement and amendment.—The Secretary of State shall develop or approve acceptable forms for use in filing under this chapter. Such forms must be in accord with the requirements of Florida law, including s. 201.22. The secretary may, if he or she finds that such forms meet these requirements, approve the use of a standard national form for this purpose.

679.522 Maintenance and destruction of records.—

(1) The filing office shall maintain a record of the information provided in a filed financing statement for at least 1 year after the effectiveness of the financing statement has lapsed under s. 679.515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number, or official records book and page number if a fixture filing, assigned to the initial financing statement to which the record relates.

(2) Except to the extent that chapter 119 governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection (1).

679.523 Information from filing office; sale or license of records.—

(1) If a person files a written record, the filing office shall make available, on the database, an image of the record showing the number assigned to the record pursuant to s. 679.519(1)(a) and the date of the filing of the record or, if requested, send to the person a separate printed acknowledgement indicating the debtor's name, the number assigned to the record pursuant to s. 679.519(1)(a), and the date of the filing of the record.

(2) If a person files a record other than a written record, the filing office described in s. 679.5011(l)(b) shall communicate to the person an image that provides:

(a) The information in the record;

(b) The number assigned to the record pursuant to s. 679.519(1)(a); and

(c) The date and time of the filing of the record.

(3) In complying with its duty under this chapter, the filing office described in s. 679.5011(1)(b) may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate or a record that can be admitted into evidence in the courts of the state without extrinsic evidence of its authenticity.

(4) The filing office described in s. 679.5011(1)(b) shall perform the acts required by subsections (1) and (2) at the time and in the manner prescribed by any filing-office rule, but not later than 3 business days after the filing office receives the request, if practical.

679.524 Delay by filing office.—Delay by the filing office beyond a time limit prescribed by this part is excused if:

(1) The delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and

(2) The filing office exercises reasonable diligence under the circumstances.

679.525 Processing fees.—

(1) Except as otherwise provided in subsection (3), the nonrefundable processing fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in s. 679.5021(3), is:

(a) For filing an initial financing statement, $28 for the first page, and second page, if any, which shall include the cost of filing a termination statement for the financing statement;

(b) For filing an amendment, $12 for the first page;

(c) For indexing by additional debtor, secured party, or assignee, $3 per additional name indexed;

(d) For use of a nonapproved form, $5;

(e) For each additional page attached to a record, $3;

(f) For filing a financing statement communicated by an electronic filing process authorized by the filing office, $15 with no additional fees for multiple names or attached pages;

(g) For filing an amendment communicated by an electronic filing process authorized by the filing office, $5 with no additional fees for multiple names or attached pages;

(h) For a certified copy of a financing statement and any and all associated amendments, $30; and

(i) For a photocopy of a filed record, $1 per page.

(2) Except as otherwise provided in subsection (3), the fee for filing and indexing an initial financing statement of the kind described in s. 679.5021(3) is the amount specified in chapter 28.

(3) This section does not require a fee with respect to a mortgage that is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under s. 679.5021(3). However, the recording and satisfaction fees that otherwise would be applicable to the mortgage apply.

679.526 Filing-office rules.—The Department of State may adopt and publish rules to administer this chapter. The filing-office rules must be:

(1) Consistent with this chapter.

(2) Adopted and published in accordance with the Administrative Procedure Act.

679.527 Florida Secured Transaction Registry.—

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

(a) The "Florida Secured Transaction Registry" or "registry" means the centralized database in which all initial financing statements, amendments, assignments, and other statements of change authorized to be filed under this chapter are filed, maintained, and retrieved. The term does not apply to documents that are filed under this chapter with the clerk of a circuit court.

(b) "Department" means the Department of State.

(c) "Materials and records" includes, but is not limited to data bases, source or object codes, and any software relating to the Florida Secured Transaction Registry or system for centralized filing under this part, regardless of the original source of its creation or maintenance.

(2) The Department of State may contract for the performance of the administrative and operational functions under this part of the filing office and filing officer for the Florida Secured Transaction Registry, provided that any such contract shall not be assignable or otherwise transferable without the express written consent of the department, notwithstanding any limitations imposed by ss. 679.4061 or 679.4081.

(3) The department shall perform the administrative and operational functions, as filing officer and filing office, for the Florida Secured Transaction Registry until October 1, 2001, or upon the effective date of a contract executed by the department to administer and operate the registry, whichever occurs later. At such time, the department shall cease serving as the designated filing officer and filing office for the registry under this part, and thereafter, except to the extent it reclaims such responsibilities as provided below, shall not be responsible for the duties of the filing office and officer under this part, including determining whether documents tendered for filing under this part satisfy the requirements of law. The department shall retain authority under this part to approve the forms required to be filed under this part. If authorized by the contract, the entity performing the duties of the filing office may certify a copy of a financing statement or amendment thereto which shall be admissible in a state or federal court or other tribunal proceeding.

(4) Notwithstanding the terms and conditions of any contract to perform the administrative and operational functions of the filing office or filing officer under this part for the Florida Secured Transaction Registry, the department and the state shall retain sole and exclusive ownership of the materials and records of the registry, shall have the right to inspect and make copies of the materials and records of the registry, and shall have the right to immediately reclaim and take possession and control of the original materials and records of the registry if any entity under contract with the department to administer and operate the registry does not, or cannot, perform the terms and conditions of the contract for any reason or commences or consents to an insolvency proceeding. If the department reclaims control of the materials and records of the registry, the department shall provide for the uninterrupted fulfillment of the duties of the filing office and filing officer by administration and operation by the department until a subsequent contract for such duties can be executed. The department shall be entitled to injunctive relief if the entity fails to turn over the materials and records upon demand, and the Circuit Court for Leon County, Florida shall have exclusive original jurisdiction to adjudicate any disputes pertaining to this section or any contract entered into under this section.

(5) The Department of State shall immediately develop and issue a Request for Qualifications seeking capable parties to perform both the administrative and operational functions currently being performed by the department as a filing officer and filing office under the Uniform Commercial Code.

(a) The qualifications shall, at a minimum, provide for the organization and maintenance of the Florida Secured Transaction Registry as the centralized Uniform Commercial Code filing and retrieval system, which:

1. Is comparable and compatible with the existing filing system.

2. Is open to the public and accessible through the Internet, to permit the review of all existing filings of the department and all future filings, in compliance with chapter 119.

3. Provides for oversight and compliance audits by the department.

4. Requires records maintenance in compliance with this part and chapter 119.

5. Maintains the current level of filing fees and procedures for the deposit of revenues with the department as specified in chapter 15, net of operating costs, for a period of 5 years.

(b) The Department of State shall develop performance standards to ensure that the filing system is accurate and complete and that the users thereof are being well-served. Periodically, the department shall verify that these performance standards are being met or modified as may be needed from time to time.

Section 7. Part VI of chapter 679, Florida Statutes, consisting of sections 679.601, 679.602, 679.603, 679.604, 679.605, 679.606, 679.607, 679.608, 679.609, 679.610, 679.611, 679.612, 679.613, 679.614, 679.615, 679.616, 679.617, 679.618, 679.619, 679.620, 679.621, 679.622, 679.623, 679.624, 679.625, 679.626, 679.627, and 679.628, Florida Statutes, is created to read:

PART VI
DEFAULT

679.601 Rights after default; judicial enforcement; consignor or buyer of accounts, chattel paper, payment intangibles, or promissory notes.—

(1) After default, a secured party has the rights provided in this part and, except as otherwise provided in s. 679.602, those provided by agreement of the parties. A secured party:

(a) May reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(b) If the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(2) A secured party in possession of collateral or control of collateral under s. 679.1041, s. 679.1051, s. 679.1061, or s. 679.1071 has the rights and duties provided in s. 679.2071.

(3) The rights under subsections (1) and (2) are cumulative and may be exercised simultaneously.

(4) Except as otherwise provided in subsection (7) and s. 679.605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(5) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(a) The date of perfection of the security interest or agricultural lien in the collateral;

(b) The date of filing a financing statement covering the collateral; or

(c) Any date specified in a statute under which the agricultural lien was created.

(6) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this chapter.

(7) Except as otherwise provided in s. 679.607(3), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

679.602 Waiver and variance of rights and duties.—Except as otherwise provided in s. 679.624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

(1) Section 679.2071(2)(d)3., which deals with use and operation of the collateral by the secured party;

(2) Section 679.210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account;

(3) Section 679.607(3), which deals with collection and enforcement of collateral;

(4) Sections 679.608(1) and 679.615(3) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;

(5) Sections 679.608(1) and 679.615(4) to the extent that they require accounting for or payment of surplus proceeds of collateral;

(6) Section 679.609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;

(7) Sections 679.610(2), 679.611, 679.613, and 679.614, which deal with disposition of collateral;

(8) Section 679.615(6), which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor;

(9) Section 679.616, which deals with explanation of the calculation of a surplus or deficiency;

(10) Sections 679.620, 679.621, and 679.622, which deal with acceptance of collateral in satisfaction of obligation;

(11) Section 679.623, which deals with redemption of collateral;

(12) Section 679.624, which deals with permissible waivers; and

(13) Sections 679.625 and 679.626, which deal with the secured party's liability for failure to comply with this article.

679.603 Agreement on standards concerning rights and duties.—

(1) The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in s. 679.602 if the standards are not manifestly unreasonable.

(2) Subsection (1) does not apply to the duty under s. 679.609 to refrain from breaching the peace.

679.604 Procedure if security agreement covers real property or fixtures.—

(1) If a security agreement covers both personal and real property, a secured party may proceed:

(a) Under this part as to the personal property without prejudicing any rights with respect to the real property; or

(b) As to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this part do not apply.

(2) Subject to subsection (3), if a security agreement covers goods that are or become fixtures, a secured party may proceed:

(a) Under this part; or

(b) In accordance with the rights with respect to real property, in which case the other provisions of this part do not apply.

(3) Subject to the other provisions of this part, if a secured party holding a security interest in fixtures has priority over all owners and encumbrancers of the real property, the secured party, after default, may remove the collateral from the real property. The secured party shall give reasonable notification of its intent to remove the collateral to all persons entitled to reimbursement under subsection (4).

(4) A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse. This subsection does not prohibit a secured party and the person entitled to reimbursement from entering into an authenticated record providing for the removal of fixtures and reimbursement for any damage caused thereby.

679.605 Unknown debtor or secondary obligor.—A secured party does not owe a duty based on its status as secured party:

(1) To a person who is a debtor or obligor, unless the secured party knows:

(a) That the person is a debtor or obligor;

(b) The identity of the person; and

(c) How to communicate with the person; or

(2) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(a) That the person is a debtor; and

(b) The identity of the person.

679.606 Time of default for agricultural lien.—For purposes of this part, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

679.607 Collection and enforcement by secured party.—

(1) If so agreed, and in any event after default, a secured party:

(a) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(b) May take any proceeds to which the secured party is entitled under s. 679.3151;

(c) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(d) If it holds a security interest in a deposit account perfected by control under s. 679.1041(1)(a), may apply the balance of the deposit account to the obligation secured by the deposit account; and

(e) If it holds a security interest in a deposit account perfected by control under s. 679.1041(1)(b) or (c), may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(2) If necessary to enable a secured party to exercise under paragraph (1)(c) the right of a debtor to enforce a mortgage nonjudicially outside this state, the secured party may record in the office in which a record of the mortgage is recorded:

(a) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(b) The secured party's sworn affidavit in recordable form stating that:

1. A default has occurred; and

2. The secured party is entitled to enforce the mortgage nonjudicially outside this state.

(3) A secured party shall proceed in a commercially reasonable manner if the secured party:

(a) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(b) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(4) A secured party may deduct from the collections made pursuant to subsection (3) reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(5) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

(6) Nothing in subsection (2) is intended to create a right of nonjudicial foreclosure in this state.

679.608 Application of proceeds of collection or enforcement; liability for deficiency and right to surplus.—

(1) If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(a) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under s. 679.607 in the following order to:

1. The reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

2. The satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

3. The satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time and agree to indemnify the secured party on reasonable terms acceptable to the secured party for damages, including reasonable attorney's fees and costs, incurred or suffered by the secured party if the subordinate holder did not have the right to receive the amounts to be paid to it. Unless the holder complies, the secured party need not comply with the holder's demand under subparagraph (a)3.

(c) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under s. 679.607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(2) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

(3) If the secured party in good faith cannot determine the validity, extent, or priority of a subordinate security interest or other lien or there are conflicting claims of subordinate interests or liens, the secured party may commence an interpleader action with respect to remaining proceeds in excess of $2,500 in the circuit or county court, as applicable based upon the amount to be deposited, where the collateral was located or collected or in the county where the debtor has its chief executive office or principal residence in this state, as applicable. If authorized in an authenticated record, the interpleading secured party is entitled to be paid from the remaining proceeds the actual costs of the filing fee and an attorney's fee in the amount of $250 incurred in connection with filing the interpleader action and obtaining an order approving the interpleader of funds. The debtor in a consumer transaction may not be assessed for the attorney's fees and costs incurred in the interpleader action by the holders of subordinate security interests or other liens based upon disputes among said holders, and a debtor in a transaction other than a consumer transaction may only recover such fees and costs to the extent provided for in an authenticated record. If authorized in an authenticated record, the court in the interpleader action may award reasonable attorney's fees and costs to the prevailing party in a dispute between the debtor and a holder of a security interest or lien which claims an interest in the remaining interplead proceeds, but only if the debtor challenges the validity, priority, or extent of said security interest or lien. Except as provided in this subsection, a debtor may not be assessed attorney's fees and costs incurred by any party in an interpleader action commenced under this section.

679.609 Secured party's right to take possession after default.—

(1) After default, a secured party:

(a) May take possession of the collateral; and

(b) Without removal, may render equipment unusable and dispose of collateral on a debtor's premises under s. 679.610.

(2) A secured party may proceed under subsection (1):

(a) Pursuant to judicial process; or

(b) Without judicial process, if it proceeds without breach of the peace.

(3) If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

679.610 Disposition of collateral after default.—

(1) After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(2) Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) A secured party may purchase collateral:

(a) At a public disposition; or

(b) At a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(4) A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(5) A secured party may disclaim or modify warranties under subsection (4):

(a) In a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(b) By communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(6) A record is sufficient to disclaim warranties under subsection (5) if it indicates that "there is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

679.611 Notification before disposition of collateral.—

(1) In this section, the term "notification date" means the earlier of the date on which:

(a) A secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

(b) The debtor and any secondary obligor waive the right to notification.

(2) Except as otherwise provided in subsection (4), a secured party that disposes of collateral under s. 679.610 shall send to the persons specified in subsection (3) a reasonable authenticated notification of disposition.

(3) To comply with subsection (2), the secured party shall send an authenticated notification of disposition to:

(a) The debtor;

(b) Any secondary obligor; and

(c) If the collateral is other than consumer goods:

1. Any other person from whom the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

2. Any other secured party or lienholder that, 10 days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

a. Identified the collateral;

b. Was indexed under the debtor's name as of that date; and

c. Was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

3. Any other secured party that, 10 days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in s. 679.3111(1).

(4) Subsection (2) does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(5) A secured party complies with the requirement for notification prescribed by subparagraph (3)(c)2. if:

(a) Not later than 20 days or earlier than 30 days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subparagraph (3)(c)2.; and

(b) Before the notification date, the secured party:

1. Did not receive a response to the request for information; or

2. Received a response to the request for information and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.

(6) For purposes of subsection (3), the secured party may send the authenticated notification as follows:

(a) If the collateral is other than consumer goods, to the debtor at the address in the financing statement, unless the secured party has received an authenticated record from the debtor notifying the secured party of a different address for such notification purposes or the secured party has actual knowledge of the address of the debtor's chief executive office or principal residence, as applicable, at the time the notification is sent;

(b) If the collateral is other than consumer goods, to any secondary obligor at the address, if any, in the authenticated agreement, unless the secured party has received an authenticated record from the secondary obligor notifying the secured party of a different address for such notification purposes or the secured party has actual knowledge of the address of the secondary obligor's chief executive office or principal residence, as applicable, at the time the notification is sent; and

(c) If the collateral is other than consumer goods:

1. To the person described in subparagraph (3)(c)1., at the address stated in the notification;

2. To the person described in subparagraph (3)(c)2., at the address stated in the financing statement;

3. To the person described in subparagraph (3)(c)3., at the address stated in the official records of the recording or registration agency.

679.612 Timeliness of notification before disposition of collateral.—

(1) Except as otherwise provided in subsection (2), whether a notification is sent within a reasonable time is a question of fact.

(2) A notification of disposition sent after default and 10 days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

679.613 Contents and form of notification before disposition of collateral; general.—Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(a) Describes the debtor and the secured party;

(b) Describes the collateral that is the subject of the intended disposition;

(c) States the method of intended disposition;

(d) States that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

(e) States the time and place of a public disposition or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in subsection (1) are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in subsection (1) are sufficient, even if the notification includes:

(a) Information not specified by that paragraph; or

(b) Minor errors that are not seriously misleading.

(4) A particular phrasing of the notification is not required.

(5) The following form of notification and the form appearing in s. 679.614(3), when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To:. . . . (Name of debtor, obligor, or other person to which the notification is sent). . . .

From:. . . . (Name, address, and telephone number of secured party). . . .

Name of Debtor(s):. . . . (Include only if debtor(s) are not an addressee). . . .

[For a public disposition:]

We will sell [or lease or license, as applicable] the . . . . (describe collateral). . . . to the highest qualified bidder in public as follows:

Day and Date:

Time:

Place:

[For a private disposition:]

We will sell [or lease or license, as applicable] the . . . . (describe collateral). . . . privately sometime after . . . . (day and date). . . . .

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell [or lease or license, as applicable] for a charge of $_____. You may request an accounting by calling us at . . . . (telephone number). . . . .

679.614 Contents and form of notification before disposition of collateral; consumer-goods transaction.—In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(a) The information specified in s. 679.613(1);

(b) A description of any liability for a deficiency of the person to whom the notification is sent;

(c) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under s. 679.623 is available; and

(d) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed, provides sufficient information:

. . . . (Name and address of secured party). . . .

. . . . (Date). . . .

NOTICE OF OUR PLAN TO SELL PROPERTY

. . . . (Name and address of any obligor who is also a debtor). . . .

Subject:. . . . (Identification of Transaction). . . .

We have your . . . . (describe collateral). . . . , because you broke promises in our agreement.

[For a public disposition:]

We will sell . . . . (describe collateral). . . . at public sale. A sale could include a lease or license. The sale will be held as follows:

Date:

Time:

Place:

You may attend the sale and bring bidders if you want.

[For a private disposition:]

We will sell . . . . (describe collateral). . . . at private sale sometime after . . . . (date). . . . . A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you . . . . (will or will not, as applicable). . . . still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at . . . . (telephone number). . . . .

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at . . . . (telephone number). . . . or write us at . . . . (secured party's address). . . . and request a written explanation. We will charge you $_____ for the explanation if we sent you another written explanation of the amount you owe us within the last 6 months.

If you need more information about the sale, call us at . . . . (telephone number). . . . or write us at . . . . (secured party's address). . . . .

We are sending this notice to the following other people who have an interest in . . . . (describe collateral). . . . or who owe money under your agreement:

. . . . (Names of all other debtors and obligors, if any). . . .

(4) A notification in the form of subsection (3) is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of subsection (3) is sufficient, even if it includes errors in information not required by subsection (1), unless the error is misleading with respect to rights arising under this chapter.

(6) If a notification under this section is not in the form of subsection (3), law other than this chapter determines the effect of including information not required by subsection (1).

679.615 Application of proceeds of disposition; liability for deficiency and right to surplus.—

(1) A secured party shall apply or pay over for application the cash proceeds of disposition under s. 679.610 in the following order to:

(a) The reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(b) The satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(c) The satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

1. The secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

2. In a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(d) A secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time after receipt of the request and agree to indemnify the secured party on reasonable terms acceptable to the

secured party for damages, including reasonable attorney's fees and costs, incurred or suffered by the secured party if the subordinate holder did not have the right to receive the amounts to be paid to it. Unless the holder complies, the secured party need not comply with the holder's demand under paragraph (1)(c).

(3) A secured party need not apply or pay over for application noncash proceeds of disposition under s. 679.610 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (1) and permitted by subsection (3):

(a) Unless paragraph (1)(d) requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(b) The obligor is liable for any deficiency.

(5) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(a) The debtor is not entitled to any surplus; and

(b) The obligor is not liable for any deficiency.

(6) The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(a) The transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(b) The amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(7) A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(a) Takes the cash proceeds free of the security interest or other lien;

(b) Is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(c) Is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

(8) If the secured party in good faith cannot determine the validity, extent, or priority of a subordinate security interest or other lien or there are conflicting claims of subordinate interests or liens, the secured party may commence an interpleader action with respect to remaining proceeds in excess of $2,500 in the circuit or county court, as applicable based upon the amount to be deposited, where the collateral was located or collected or in the county where the debtor's chief executive office or principal residence is located in this state, as applicable. The interpleading secured party and any other parties in the interpleader action shall only be entitled to recover attorney's fees and costs as permitted in s. 679.608(3).

679.616 Explanation of calculation of surplus or deficiency.—

(1) In this section, the term:

(a) "Explanation" means a writing that:

1. States the amount of the surplus or deficiency;

2. Provides an explanation in accordance with subsection (3) of how the secured party calculated the surplus or deficiency;

3. States, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and

4. Provides a telephone number or mailing address from which additional information concerning the transaction is available.

(b) "Request" means a record:

1. Authenticated by a debtor or consumer obligor;

2. Requesting that the recipient provide an explanation; and

3. Sent after disposition of the collateral under s. 679.610.

(2) In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under s. 679.615, the secured party shall:

(a) Send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

1. Before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency; and

2. Within 14 days after receipt of a request; or

(b) In the case of a consumer obligor who is liable for a deficiency, within 14 days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(3) To comply with subparagraph (1)(a)2., a writing must provide the following information in the following order:

(a) The aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

1. If the secured party takes or receives possession of the collateral after default, not more than 35 days before the secured party takes or receives possession; or

2. If the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than 35 days before the disposition;

(b) The amount of proceeds of the disposition;

(c) The aggregate amount of the obligations after deducting the amount of proceeds;

(d) The amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral which are known to the secured party and relate to the current disposition;

(e) The amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in paragraph (a); and

(f) The amount of the surplus or deficiency.

(4) A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (1) is sufficient, even if it includes minor errors that are not seriously misleading.

(5) A debtor or consumer obligor is entitled without charge to one response to a request under this section during any 6-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to paragraph (2)(a). The secured party may require payment of a charge not exceeding $25 for each additional response.

679.617 Rights of transferee of collateral.—

(1) A secured party's disposition of collateral after default:

(a) Transfers to a transferee for value all of the debtor's rights in the collateral;

(b) Discharges the security interest under which the disposition is made; and

(c) Discharges any subordinate security interest or other subordinate lien other than liens created under statutes providing for liens, if any, that are not to be discharged.

(2) A transferee that acts in good faith takes free of the rights and interests described in subsection (1), even if the secured party fails to comply with this chapter or the requirements of any judicial proceeding.

(3) If a transferee does not take free of the rights and interests described in subsection (1), the transferee takes the collateral subject to:

(a) The debtor's rights in the collateral;

(b) The security interest or agricultural lien under which the disposition is made; and

(c) Any other security interest or other lien.

679.618 Rights and duties of certain secondary obligors.—

(1) A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

(a) Receives an assignment of a secured obligation from the secured party;

(b) Receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or

(c) Is subrogated to the rights of a secured party with respect to collateral.

(2) An assignment, transfer, or subrogation described in subsection (1):

(a) Is not a disposition of collateral under s. 679.610; and

(b) Relieves the secured party of further duties under this chapter.

679.619 Transfer of record or legal title.—

(1) In this section, the term "transfer statement" means a record authenticated by a secured party stating:

(a) That the debtor has defaulted in connection with an obligation secured by specified collateral;

(b) That the secured party has exercised its post-default remedies with respect to the collateral;

(c) That, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(d) The name and mailing address of the secured party, debtor, and transferee.

(2) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(a) Accept the transfer statement;

(b) Promptly amend its records to reflect the transfer; and

(c) If applicable, issue a new appropriate certificate of title in the name of the transferee.

(3) A transfer of the record or legal title to collateral to a secured party under subsection (2) or otherwise is not of itself a disposition of collateral under this chapter and does not of itself relieve the secured party of its duties under this chapter.

679.620 Acceptance of collateral in full or partial satisfaction of obligation; compulsory dispostion of collateral.—

(1) Except as otherwise provided in subsection (7), a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(a) The debtor consents to the acceptance under subsection (3);

(b) The secured party does not receive, within the time set forth in subsection (4), a notification of objection to the proposal authenticated by:

1. A person to whom the secured party was required to send a proposal under s. 679.621; or

2. Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(c) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(d) Subsection (5) does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to s. 679.624.

(2) A purported or apparent acceptance of collateral under this section is ineffective unless:

(a) The secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(b) The conditions of subsection (1) are met.

(3) For purposes of this section:

(a) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

(b) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

1. Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

2. In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures, and, in a consumer transaction, provides notice that the proposal will be deemed accepted if it is not objected to by an authenticated notice within 30 days after the date the proposal is sent by the secured party; and

3. Does not receive a notification of objection authenticated by the debtor within 30 days after the proposal is sent.

(4) To be effective under paragraph (1)(b), a notification of objection must be received by the secured party:

(a) In the case of a person to whom the proposal was sent pursuant to s. 679.621, within 20 days after notification was sent to that person; and

(b) In other cases:

1. Within 20 days after the last notification was sent pursuant to s. 679.621; or

2. If a notification was not sent, before the debtor consents to the acceptance under subsection (3).

(5) A secured party that has taken possession of collateral shall dispose of the collateral pursuant to s. 679.610 within the time specified in subsection (6) if:

(a) Sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(b) Sixty percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(6) To comply with subsection (5), the secured party shall dispose of the collateral:

(a) Within 90 days after taking possession; or

(b) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(7) In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

679.621 Notification of proposal to accept collateral.—

(1) A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(a) Any person from whom the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral;

(b) Any other secured party or lienholder that, 10 days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

1. Identified the collateral;

2. Was indexed under the debtor's name as of that date; and

3. Was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(c) Any other secured party that, 10 days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in s. 679.3111(1).

(2) A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (1).

(3) A secured party shall send its proposal under s. 679.621(1) or (2) to the affected party at the address prescribed in s. 679.611(6).

679.622 Effect of acceptance of collateral.—

(1) A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

(a) Discharges the obligation to the extent consented to by the debtor;

(b) Transfers to the secured party all of a debtor's rights in the collateral;

(c) Discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and

(d) Terminates any other subordinate interest.

(2) A subordinate interest is discharged or terminated under subsection (1), even if the secured party fails to comply with this chapter.

679.623 Right to redeem collateral.—

(1) A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

(2) To redeem collateral, a person shall tender:

(a) Fulfillment of all obligations secured by the collateral; and

(b) The reasonable expenses and attorney's fees described in s. 679.615(1)(a).

(3) A redemption may occur at any time before a secured party:

(a) Has collected collateral under s. 679.607;

(b) Has disposed of collateral or entered into a contract for its disposition under s. 679.610; or

(c) Has accepted collateral in full or partial satisfaction of the obligation it secures under s. 679.622.

679.624 Waiver.—

(1) A debtor or secondary obligor may waive the right to notification of disposition of collateral under s. 679.611 only by an agreement to that effect entered into and authenticated after default.

(2) A debtor may waive the right to require disposition of collateral under s. 679.620(5) only by an agreement to that effect entered into and authenticated after default.

(3) Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under s. 679.623 only by an agreement to that effect entered into and authenticated after default.

679.625 Remedies for failure to comply with article.—

(1) If it is established that a secured party is not proceeding in accordance with this chapter, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions. This subsection shall not preclude a debtor other than a consumer and a secured party, or two or more secured parties in other than a consumer transaction, from agreeing in an authenticated record that the debtor or secured party must first provide to the alleged offending secured party notice of a violation of this chapter and opportunity to cure before commencing any legal proceeding under this section.

(2) Subject to subsections (3), (4), and (6), a person is liable for damages in the amount of any loss caused by a failure to comply with this chapter, including damages suffered by the debtor resulting from the debtor's inability to obtain, or increased costs of, alternative financing, but not including consequential, special, or penal damages, unless the conduct giving rise to the failure constitutes an independent claim under the laws of this state other than this chapter and then only to the extent otherwise recoverable under law.

(3) Except as otherwise provided in s. 679.628:

(a) A person who, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (2) for the person's loss; and

(b) If the collateral is consumer goods, a person who was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event an amount not less than the credit service charge plus 10 percent of the principal amount of the obligation or the time-price differential plus 10 percent of the cash price.

(4) A debtor whose deficiency is eliminated under s. 679.626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under s. 679.626 may not otherwise recover under subsection (2) for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(5) In lieu of damages recoverable under subsection (2), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover $500 in each case from a person who:

(a) Fails to comply with s. 679.2081;

(b) Fails to comply with s. 679.209;

(c) Files a record that the person is not entitled to file under s. 679.509(1);

(d) Fails to cause the secured party of record to file or send a termination statement as required by s. 679.513(1) or (3) after receipt of an authenticated record notifying the person of such noncompliance;

(e) Fails to comply with s. 679.616(2)(a) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or

(f) Fails to comply with s. 679.616(2)(b) with respect to a consumer transaction, and with respect to a transaction other than a consumer transaction, after receipt of an authenticated record notifying the person of such noncompliance.

(6) A debtor or consumer obligor may recover damages under subsection (2) and, in addition, $500 in each case from a person who, without reasonable cause, fails to comply with a request under s. 679.210. A recipient of a request under s. 679.210 which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(7) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under S. 679.210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person who is reasonably misled by the failure.

679.626 Action in which deficiency or surplus is in issue.—In an action arising from a transaction in which the amount of a deficiency or surplus is in issue, the following rules apply:

(1) A secured party need not prove compliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(2) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this part.

(3) Except as otherwise provided in s. 679.628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, reasonable expenses, and, to the extent provided for by agreement and not prohibited by law, attorney's fees exceeds the greater of:

(a) The proceeds of the collection, enforcement, disposition, or acceptance; or

(b) The amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(4) For purposes of paragraph (3)(b), the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the secured party proves that the amount is less than that sum.

(5) If a deficiency or surplus is calculated under s. 679.615(6), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

679.627 Determination of whether conduct was commercially reasonable.—

(1) The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(2) A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

(a) In the usual manner on any recognized market;

(b) At the price current in any recognized market at the time of the disposition; or

(c) Otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(3) A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

(a) In a judicial proceeding;

(b) By a bona fide creditors' committee;

(c) By a representative of creditors; or

(d) By an assignee for the benefit of creditors.

(4) Approval under subsection (3) need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

679.628 Nonliability and limitation on liability of secured party; liability of secondary obligor.—

(1) Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(a) The secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this chapter; and

(b) The secured party's failure to comply with this chapter does not affect the liability of the person for a deficiency.

(2) A secured party is not liable because of its status as a secured party:

(a) To a person who is a debtor or obligor, unless the secured party knows:

1. That the person is a debtor or obligor;

2. The identity of the person; and

3. How to communicate with the person; or

(b) To a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

1. That the person is a debtor; and

2. The identity of the person.

(3) A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(a) A debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(b) an obligor's representation concerning the purpose for which a secured obligation was incurred.

(4) A secured party is not liable to any person under s. 679.625(3)(b) for its failure to comply with s. 679.616.

(5) A secured party is not liable under s. 679.625(3)(b) more than once with respect to any one secured obligation.

Section 8. Part VII of chapter 679, Florida Statutes, consisting of sections 679.701, 679.702, 679.703, 679.704, 679.705, 679.706, 679.707, 679.708, and 679.709, Florida Statutes, is created to read:

PART VII
TRANSITION

679.701 Effective date.—This part takes effect January 1, 2002.

679.702 Savings clause.—

(1) Except as otherwise provided in this part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this act takes effect.

(2) Except as otherwise provided in subsection (3) and ss. 679.703-679.709:

(a) Transactions and liens that were not governed by chapter 679, Florida Statutes 2000, were validly entered into or created before this act takes effect, and would be subject to this act if they had been entered into or created after this act takes effect, and the rights, duties, and interests flowing from those transactions and liens remain valid after this act takes effect; and

(b) The transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by this act or by the law that otherwise would apply if this act had not taken effect.

(3) This act does not affect an action, case, or proceeding commenced before this act takes effect.

679.703 Security interest perfected before effective date.—

(1) A security interest that is enforceable immediately before this act takes effect and would have priority over the rights of a person who becomes a lien creditor at that time is a perfected security interest under this act if, when this act takes effect, the applicable requirements for enforceability and perfection under this act are satisfied without further action.

(2) Except as otherwise provided in s. 679.705, if, immediately before this act takes effect, a security interest is enforceable and would have priority over the rights of a person who becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under this act are not satisfied when this act takes effect, the security interest:

(a) Is a perfected security interest for 1 year after this act takes effect;

(b) Remains enforceable thereafter only if the security interest becomes enforceable under s. 679.203 before the year expires; and

(c) Remains perfected thereafter only if the applicable requirements for perfection under this act are satisfied before the year expires.

679.704 Security interest unperfected before effective date.—A security interest that is enforceable immediately before this act takes effect but that would be subordinate to the rights of a person who becomes a lien creditor at that time:

(1) Remains an enforceable security interest for 1 year after this act takes effect;

(2) Remains enforceable thereafter if the security interest becomes enforceable under s. 679.203 when this act takes effect or within 1 year thereafter; and

(3) Becomes perfected:

(a) Without further action when this act takes effect if the applicable requirements for perfection under this act are satisfied before or at that time; or

(b) When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

679.705 Effectiveness of action taken before effective date.—

(1) If action, other than the filing of a financing statement, is taken before this act takes effect and the action would have resulted in priority of a security interest over the rights of a person who becomes a lien creditor had the security interest become enforceable before this act takes effect, the action is effective to perfect a security interest that attaches under this act within 1 year after this act takes effect. An attached security interest becomes unperfected 1 year after this act takes effect unless the security interest becomes a perfected security interest under this act before the expiration of that period.

(2) The filing of a financing statement before this act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this act.

(3) This act does not render ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in s. 679.103, Florida Statutes 2000. However, except as otherwise provided in subsections (4) and (5) and s. 679.706, the financing statement ceases to be effective at the earlier of:

(a) The time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or

(b) June 30, 2006.

(4) The filing of a continuation statement after this act takes effect does not continue the effectiveness of the financing statement filed before this act takes effect. However, upon the timely filing of a continuation statement after this act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in part III, the effectiveness of a financing statement filed in the same office in that jurisdiction before this act takes effect continues for the period provided by the law of that jurisdiction.

(5) Paragraph (3)(b) applies to a financing statement that, before this act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in s. 679.103, Florida Statutes 2000, only to the extent that part III provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(6) A financing statement that includes a financing statement filed before this act takes effect and a continuation statement filed after this act takes effect is effective only to the extent that it satisfies the requirements of part V for an initial financing statement.

679.706 When initial financing statement suffices to continue effectiveness of financing statement.—

(1) The filing of an initial financing statement in the office specified in s. 679.5011 continues the effectiveness of a financing statement filed before this act takes effect if:

(a) The filing of an initial financing statement in that office would be effective to perfect a security interest under this act;

(b) The pre-effective date financing statement was filed in an office in another state or another office in this state; and

(c) The initial financing statement satisfies subsection (3).

(2) The filing of an initial financing statement under subsection (1) continues the effectiveness of the pre-effective date financing statement:

(a) If the initial financing statement is filed before this act takes effect, for the period provided in s. 679.403, Florida Statutes 2000, with respect to a financing statement; and

(b) If the initial financing statement is filed after this act takes effect, for the period provided in s. 679.515 with respect to an initial financing statement.

(3) To be effective for purposes of subsection (1), an initial financing statement must:

(a) Satisfy the requirements of part V for an initial financing statement;

(b) Identify the pre-effective date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(c) Indicate that the pre-effective date financing statement remains effective.

679.707 Amendment or pre-effective date financing statement.—

(1) In this section, the term "pre-effective date financing statement" means a financing statement filed before this act takes effect.

(2) After this act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in a pre-effective date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in part III. However, the effectiveness of a pre-effective date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(3) Except as otherwise provided in subsection (4), if the law of this state governs perfection of a security interest, the information in a pre-effective date financing statement may be amended after this act takes effect only if:

(a) The pre-effective date financing statement and an amendment are filed in the office specified in s. 679.5011;

(b) An amendment is filed in the office specified in s. 679.5011 concurrently with, or after the filing in that office of, an initial financing statement that satisfies s. 671.706(3); or

(c) An initial financing statement that provides the information as amended and satisfies s. 679.706(3) is filed in the office specified in s. 679.5011.

(4) If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective date financing statement may be continued only under s. 679.705(4) and (6) or s. 679.706.

(5) Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective date financing statement filed in this state may be terminated after this act takes effect by filing a termination statement in the office in which the pre-effective date financing statement is filed, unless an initial financing statement that satisfies s. 679.706(3) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in part III as the office in which to file a financing statement.

679.708 Persons entitled to file initial financing statement or continuation statement.—A person may file an initial financing statement or a continuation statement under this part if:

(1) The secured party of record authorizes the filing; and

(2) The filing is necessary under this part:

(a) To continue the effectiveness of a financing statement filed before this act takes effect; or

(b) To perfect or continue the perfection of a security interest.

679.709 Priority.—

(1) This act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this act takes effect, chapter 679, Florida Statutes 2000, determines priority.

(2) For purposes of s. 679.322(1), the priority of a security interest that becomes enforceable under s. 679.2031 of this act dates from the time this act takes effect if the security interest is perfected under this act by the filing of a financing statement before this act takes effect which would not have been effective to perfect the security interest under chapter 679, Florida Statutes 2000. This subsection does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement.

Section 9. Subsection (2) of section 671.105, Florida Statutes, is amended to read:

671.105 Territorial application of the code; parties' power to choose applicable law.—

(2) When one of the following provisions of this code specifies the applicable law, that provision governs; and a contrary agreement is effective only to the extent permitted by the law (including the conflict-of-laws rules) so specified:

(a) Governing law in the chapter on funds transfers. (s. 670.507)

(b) Rights of sellers' creditors against sold goods. (s. 672.402)

(c) Applicability of the chapter on bank deposits and collections. (s. 674.102)

(d) Applicability of the chapter on letters of credit. (s. 675.116)

(e) Applicability of the chapter on investment securities. (s. 678.1101)

(f) *Law governing* perfection*, the effect* ~~provisions~~ of *perfection or nonperfection, and* the *priority of security interests and agricultural liens* ~~chapter on secured transactions~~. *(ss. 679.3011-679.3071)* ~~(s. 679.103)~~

(g) Applicability of the chapter on leases. (ss. 680.1051 and 680.1061)

Section 10. Subsections (9), (32), and (37) of section 671.201, Florida Statutes, are amended to read:

671.201 General definitions.—Subject to additional definitions contained in the subsequent chapters of this code which are applicable to specific chapters or parts thereof, and unless the context otherwise requires, in this code:

(9) "Buyer in ordinary course of business" means a person who *buys goods* in good faith ~~and~~ without knowledge that the sale *violates* ~~to him or her is in violation of~~ the ~~ownership~~ rights ~~or security interest~~ of *another person* ~~a third party~~ in the goods*, and* ~~buys~~ in *the* ordinary course from a person*, other than a pawnbroker,* in the business of selling goods of that kind ~~but does not include a pawnbroker~~. *A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person who sells oil, gas, or other minerals at the wellhead or minehead is a person* ~~All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons~~ in the business of selling goods of that kind. *A buyer in the ordinary course of business* ~~"Buying"~~ may *buy* ~~be~~ for cash*,* ~~or~~ by exchange of other property*,* or on secured or unsecured credit and *may acquire* ~~includes receiving~~ goods or documents of title under a preexisting contract for sale ~~but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt~~. *Only a buyer who takes possession of the goods or has a right to recover the goods from the seller under chapter 672 may be a buyer in the ordinary course of business. A person who acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in the ordinary course of business.*

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, *security interest,* issue or reissue, gift or any other voluntary transaction creating an interest in property.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. ~~The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (s. 672.401) is limited in effect to a reservation of a security interest.~~ The term also includes any interest of *a consignor and* a buyer of accounts*,* ~~or~~ chattel paper*, a payment intangible, or a promissory note in a transaction* which is subject to

chapter 679. The special property interest of a buyer of goods on identification of those goods to a contract for sale under s. 672.401 is not a security interest, but a buyer may also acquire a security interest by complying with chapter 679. *Except as otherwise provided in s. 672.505, the right of a seller or lessor of goods under chapter 672 or chapter 680 to retain or acquire possession of the goods is not a security interest, but a seller or lessor may also acquire a security interest by complying with chapter 679. The retention or reservation of title by a seller of goods, notwithstanding shipment or delivery to the buyer (s. 672.401), is limited in effect to a reservation of a security interest.* ~~Unless a consignment is intended as security, reservation of title thereunder is not a security interest, but a consignment is in any event subject to the provisions on consignment sales (s. 672.326).~~ Whether a transaction creates a lease or security interest is determined by the facts of each case; however:

(a) A transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and;

1. The original term of the lease is equal to or greater than the remaining economic life of the goods;

2. The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

3. The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement; or

4. The lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

(b) A transaction does not create a security interest merely because it provides that:

1. The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

2. The lessee assumes the risk of loss of the goods or agrees to pay taxes; insurance; filing, recording, or registration fees; or service or maintenance costs with respect to the goods;

3. The lessee has an option to renew the lease or to become the owner of the goods;

4. The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

5. The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

(c) For purposes of this subsection:

1. Additional consideration is not nominal if, when the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed or if, when the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised.

2. "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into.

3. "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

Section 11. Subsection (3) of section 672.103, Florida Statutes, is amended to read:

672.103 Definitions and index of definitions.—

(3) The following definitions in other chapters apply to this chapter:

"Check," s. 673.1041.

"Consignee," s. 677.102.

"Consignor," s. 677.102.

"Consumer goods," s. *679.1021* ~~679.109~~.

"Dishonor," s. 673.5021.

"Draft," s. 673.1041.

Section 12. Section 672.210, Florida Statutes, is amended to read:

672.210 Delegation of performance; assignment of rights.—

(1) A party may perform her or his duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having her or his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) *Except as otherwise provided in s. 679.4061,* unless otherwise agreed all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on her or him by her or his contract, or impair materially her or his chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of her or his entire obligation can be assigned despite agreement otherwise.

(3) The creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but the seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer. A court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.

(4)~~(3)~~ Unless the circumstances indicate the contrary a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

(5)~~(4)~~ An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by her or him to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

(6)~~(5)~~ The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to her or his rights against the assignor demand assurances from the assignee (s. 672.609).

Section 13. Section 672.326, Florida Statutes, is amended to read:

672.326 Sale on approval and sale or return; ~~consignment sales and~~ rights of creditors.—

(1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is:

(a) A "sale on approval" if the goods are delivered primarily for use, and

(b) A "sale or return" if the goods are delivered primarily for resale.

(2) ~~Except as provided in subsection (3),~~ Goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

~~(3) Where goods are delivered to a person for sale and such person maintains a place of business at which she or he deals in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum." However, this subsection is not applicable if the person making delivery:~~

~~(a) Complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign, or~~

~~(b) Establishes that the person conducting the business is generally known by her or his creditors to be substantially engaged in selling the goods of others, or~~

~~(c) Complies with the filing provisions of the chapter on secured transactions (chapter 679).~~

(3)~~(4)~~ Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this chapter (s. 672.201) and as contradicting the sale aspect of the contract within the provisions of this chapter on parol or extrinsic evidence (s. 672.202).

Section 14. Section 672.502, Florida Statutes, is amended to read:

672.502 Buyer's right to goods on seller's *repudiation, failure to deliver, or* insolvency.—

(1) Subject to *subsections* ~~subsection~~ (2) *and (3),* and even though the goods have not been shipped*,* a buyer who has paid a part or all of the price of goods in which she or he has a special property under the provisions of the immediately preceding section may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if*:*

(a) In the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by the contract; or

(b) In all cases, the seller becomes insolvent within ten days after receipt of the first installment on their price.

(2) The buyer's right to recover the goods under paragraph (1)(a) vests upon acquisition of a special property, even if the seller has not then repudiated or failed to deliver.

(3)~~(2)~~ If the identification creating her or his special property has been made by the buyer she or he acquires the right to recover the goods only if they conform to the contract for sale.

Section 15. Section 672.716, Florida Statutes, is amended to read:

672.716 Buyer's right to specific performance or replevin.—

(1) Specific performance may be decreed where the goods are unique or in other proper circumstances.

(2) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

(3) The buyer has a right of replevin for goods identified to the contract if after reasonable effort she or he is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. *In the case of goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.*

Section 16. Subsection (3) of section 674.2101, Florida Statutes, is amended to read:

674.2101 Security interest of collecting bank in items, accompanying documents, and proceeds.—

(3) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to chapter 679, but:

(a) No security agreement is necessary to make the security interest enforceable (s. *679.2031(2)(c)1.* ~~679.203(1)(a)~~);

(b) No filing is required to perfect the security interest; and

(c) The security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

Section 17. Section 675.1181, Florida Statutes, is created to read:

675.1181 Security interest of issuer of nominated person.—

(1) An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.

(2) As long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (1), the security interest continues and is subject to chapter 679, but a security agreement is not necessary to make the security interest enforceable under s. 679.2031(2)(c):

(a) If the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and

(b) If the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document.

Section 18. Subsection (1) of section 677.503, Florida Statutes, is amended to read:

677.503 Document of title to goods defeated in certain cases.—

(1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither:

(a) Delivered or entrusted them or any document of title covering them to the bailor or the bailor's nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this chapter (s. 677.403) or with power of disposition under this code (ss. 672.403 and *679.320* ~~679.307~~) or other statute or rule of law; nor

(b) Acquiesced in the procurement by the bailor or the bailor's nominee of any document of title.

Section 19. Subsection (6) of section 678.1031, Florida Statutes, is amended to read:

678.1031 Rules for determining whether certain obligations and interests are securities or financial assets.—

(6) A commodity contract, as defined in s. *679.1021(1)(o)* ~~679.115~~, is not a security or a financial asset.

Section 20. Subsections (4) and (6) of section 678.1061, Florida Statutes, are amended to read:

678.1061 Control.—

(4) A purchaser has "control" of a security entitlement if:

(a) The purchaser becomes the entitlement holder; ~~or~~

(b) The securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder*; or*~~.~~

(c) Another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that the person has control on behalf of the purchaser.

(6) A purchaser who has satisfied the requirements of *subsection* ~~paragraph~~ (3)~~(b)~~ or *subsection* ~~paragraph~~ (4)~~(b)~~ has control*,* even if the registered owner in the case of *subsection* ~~paragraph~~ (3)~~(b)~~ or the entitlement holder in the case of *subsection* ~~paragraph~~ (4)~~(b)~~ retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

Section 21. Subsection (5) of section 678.1101, Florida Statutes, is amended to read:

678.1101 Applicability; choice of law.—

(5) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(a) If an agreement between the securities intermediary and its entitlement holder *governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this part, this chapter, or this code* ~~specifies that it is governed by the law of a particular jurisdiction~~, that jurisdiction is the securities intermediary's jurisdiction.

(b) If paragraph (a) does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(c)~~(b)~~ If *neither paragraph (a) nor paragraph (b) applies and* an agreement between the securities intermediary and its entitlement holder *governing the securities account* ~~does not specify the governing law as provided in paragraph (a), but~~ expressly *provides* ~~specifies~~ that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(d)~~(c)~~ If *none of the preceding paragraphs applies* ~~an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (a) or paragraph (b)~~, the securities intermediary's jurisdiction is the jurisdiction in which ~~is located~~ the office identified in an account statement as the office serving the entitlement holder's account *is located*.

(e)~~(d)~~ If *none of the preceding paragraphs applies* ~~an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (a) or paragraph (b) and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph (c)~~, the securities intermediary's jurisdiction is the jurisdiction in which ~~is located~~ the chief executive office of the securities intermediary *is located*.

Section 22. Subsection (1) of section 678.3011, Florida Statutes, is amended to read:

678.3011 Delivery.—

(1) Delivery of a certificated security to a purchaser occurs when:

(a) The purchaser acquires possession of the security certificate;

(b) Another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or

(c) A securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and *is registered in the name of the purchaser, payable to the order of the purchaser, or* ~~has been~~ specially indorsed to the purchaser by an effective indorsement *and has not been endorsed to the securities intermediary or in blank*.

Section 23. Section 678.3021, Florida Statutes, is amended to read:

678.3021 Rights of purchaser.—

(1) Except as otherwise provided in subsections (2) and (3), *a purchaser* ~~upon delivery~~ of a certificated or uncertificated security ~~to a purchaser, the purchaser~~ acquires all rights in the security that the transferor had or had power to transfer.

(2) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(3) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

Section 24. Section 678.5101, Florida Statutes, is amended to read:

678.5101 Rights of purchaser of security entitlement from entitlement holder.—

(1) *In a case not covered by the priority rules in chapter 679 or the rules stated in subsection (3),* an action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(2) If an adverse claim could not have been asserted against an entitlement holder under s. 678.5021, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(3) In a case not covered by the priority rules in chapter 679, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. *Except as otherwise provided in subsection (4),* purchasers who have control rank *according to priority in time of:*

(a) The purchaser's becoming the person for whom the securities account, in which the security entitlement is carried, is maintained, if the purchaser obtained control under s. 678.1061(4)(a);

(b) The securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under s. 678.1061(4)(b); or

(c) If the purchaser obtained control through another person under s. 678.1061(4)(c), the time on which priority would be based under this subsection if the other person were the secured party. ~~equally, except that~~

(4) A securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

Section 25. Subsection (3) of section 680.1031, Florida Statutes, is amended to read:

680.1031 Definitions and index of definitions.—

(3) The following definitions in other chapters of this code apply to this chapter:

(a) "Account," s. *679.1021(1)(b)* ~~679.106~~.

(b) "Between merchants," s. 672.104(3).

(c) "Buyer," s. 672.103(1)(a).

(d) "Chattel paper," s. *679.1021(1)(k)* ~~679.105(1)(b)~~.

(e) "Consumer goods," s. *679.1021(1)(w)* ~~679.109(1)~~.

(f) "Document," s. *679.1021(1)(dd)* ~~679.105(1)(f)~~.

(g) "Entrusting," s. 672.403(3).

(h) "General *intangible* ~~intangibles~~," s. *679.1021(1)(pp)* ~~679.106~~.

(i) "Good faith," s. 672.103(1)(b).

(j) "Instrument," s. *679.1021(1)(uu)* ~~679.105(1)(i)~~.

(k) "Merchant," s. 672.104(1).

(l) "Mortgage," s. *679.1021(1)(ccc)* ~~679.105(1)(j)~~.

(m) "Pursuant to a commitment," s. *679.1021(1)(ppp)* ~~679.105(1)(k)~~.

(n) "Receipt," s. 672.103(1)(c).

(o) "Sale," s. 672.106(1).

(p) "Sale on approval," s. 672.326(1).

(q) "Sale or return," s. 672.326(1).

(r) "Seller," s. 672.103(1)(d).

Section 26. Section 680.303, Florida Statutes, is amended to read:

680.303 Alienability of party's interest under lease contract or of lessor's residual interest in goods; delegation of performance; transfer of rights.—

(1) As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to chapter 679 *by reason of s. 679.1091(1)(c)*.

(2) Except as provided in *subsection* ~~subsections~~ (3) and *s. 679.4071*~~(4)~~, a provision in a lease agreement which:

(a) Prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods; or

(b) Makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection *(4)* ~~(5)~~, but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

~~(3) A provision in a lease agreement which:~~

~~(a) Prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods; or~~

~~(b) Makes such a transfer an event of default, is not enforceable unless, and then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subsection (5) unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.~~

(3)~~(4)~~ A provision in a lease agreement which:

(a) Prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation; or

(b) Makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection *(4)* ~~(5)~~.

(4)~~(5)~~ Subject to *subsection* ~~subsections~~ (3) and *s. 679.4071*~~(4)~~:

(a) If a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in s. 680.501(2);

(b) If paragraph (a) is not applicable and if a transfer is made that is prohibited under a lease agreement or materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

(5)~~(6)~~ A transfer of "the lease" or of "all my rights under the lease" or a transfer in similar general terms is a transfer of rights, and unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

(6)~~(7)~~ Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

(7)~~(8)~~ In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous.

Section 27. Section 680.307, Florida Statutes, is amended to read:

680.307 Priority of liens arising by attachment or levy on, security interests in, and other claims to goods.—

(1) Except as otherwise provided in s. 680.306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in *subsection* ~~subsections~~ (3) ~~and (4)~~ and in ss. 680.306 and 680.308, a creditor of a lessor takes subject to the lease contract unless~~:~~

~~(a)~~ the creditor holds a lien that attached to the goods before the lease contract became enforceable.~~;~~

~~(b) The creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interests; or~~

~~(c) The creditor holds a security interest in the goods which was perfected (s. 679.303) before the lease contract became enforceable.~~

(3) *Except as otherwise provided in ss. 679.3171, 679.321, and 679.323, a lessee takes a leasehold interest subject to a security interest held by a creditor or lessor.* ~~A lessee in the ordinary course of business~~

~~takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected (s. 679.303) and the lessee knows of its existence.~~

~~(4) A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than 45 days after the lease contract becomes enforceable, whichever first occurs, unless the future advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.~~

Section 28. Paragraph (b) of subsection (1) of section 680.309, Florida Statutes, is amended to read:

680.309 Lessor's and lessee's rights when goods become fixtures.—

(1) In this section:

(b) A "fixture filing" is the filing, in the office where a mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of s. *679.5021(1) and (2)* ~~679.402(5)~~.

Section 29. This act shall take effect January 1, 2002.

And the title is amended as follows:
remove the entire title from the bill:

and insert in lieu thereof: An act relating to the Uniform Commercial Code; revising ch. 679, F.S., relating to secured transactions; creating ss. 679.1011, 679.1021, 679.1031, 679.1041, 679.1051, 679.1061, 679.1071, 679.1081, 679.1091, 679.1101, F.S.; providing a short title, definitions, and general concepts; creating ss. 679.2011, 679.2021, 679.2031, 679.2041, 679.2051, 679.2061, 679.2071, 679.2081, 679.209, 679.210, F.S.; providing for the effectiveness and attachment of security agreements; prescribing rights and duties of secured parties; creating ss. 679.3011, 679.3021, 679.3031, 679.3041, 679.3051, 679.3061, 679.3071, 679.3081, 679.091, 679.3101, 679.3111, 679.3121, 679.3131, 679.3141, 679.3151, 679.3161, 679.3171, 679.3181, 679.319, 679.320, 679.321, 679.322, 679.323, 679.324, 679.325, 679.326, 679.327, 679.328, 679.329, 679.330, 679.331, 679.332, 679.333, 679.334, 679.335, 679.336, 679.337, 679.338, 679.340, 679.341, 679.342, F.S.; providing for perfection and priority of security interests; creating ss. 679.40111, 679.4021, 679.4031, 679.4041, 679.4051, 679.4061, 679.4071, 679.4081, 679.409, F.S.; prescribing rights of third parties; providing legislative findings; creating ss. 679.5011, 679.5021, 679.5031, 679.5041, 679.5051, 679.5061, 679.5071, 679.508, 679.509, 679.510, 679.511, 679.512, 679.513, 679.524, 679.515, 679.516, 679.517, 679.518, 679.519, 679.520, 679.521, 679.522, 679.523, 679.524, 679.525, 679.526, 679.527, F.S.; prescribing filing procedures for perfection of a security interest; providing forms; providing duties and operation of filing office; providing definitions relating to the Florida Secured Transaction Registry; requiring the Department of State to cease operating as designated filing officer and filing office for certain purposes; providing duties and responsibilities of the Department of State relating to contracting for the administration, operation, and maintenance of the registry; providing criteria for the registry; operation of a filing office; providing definitions relating to the Florida Secured Transaction Registry; requiring the Department of State to cease operating as designated filing officer and filing office for certain purposes; providing duties and responsibilities of the Department of State relating to contracting for the administration, operation, and maintenance of the registry; creating ss. 679.601, 679.602, 679.603, 679.604, 679.605, 679.606, 679.607, 679.608, 679.609, 679.610, 679.611, 679.612, 679.613, 679.614, 679.615, 679.616, 679.617, 679.618, 679.619, 679.620, 679.621, 679.622, 679.623, 679.624, 679.625, 679.626, 679.627, F.S.; prescribing procedures for default and enforcement of security interests; providing for forms; creating ss. 679.701, 679.702, 679.703, 679.704, 679.705, 679.706, 679.707, 679.708, 679.709, F.S.; providing transitional effective dates and savings clause for perfected and unperfected security interests, specified actions, and financing statements; specifying priority of conflicting claims; amending s. 671.105, F.S.; specifying the precedence of law governing the perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens; amending s. 671.201, F.S.; revising definitions used in the Uniform Commercial Code; amending s. 672.103, F.S.; conforming a cross-reference; amending s. 672.210, F.S.; providing that the creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially affects the buyer unless the enforcement actually results in a delegation of material performance of the seller; amending s. 672.326, F.S.; eliminating provisions relating to consignment sales; amending s. 672.502, F.S.; modifying buyers' rights to goods on a seller's repudiation, failure to deliver, or insolvency; amending s. 672.716, F.S.; providing that, for goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property; amending s. 674.2101, F.S.; conforming a cross-reference; creating s. 675.1181, F.S.; specifying conditions under which an issuer or nominated person has a security interest in a document presented under a letter of credit; amending ss. 677.503, 678.1031, F.S.; conforming cross-references; amending s. 678.1061, F.S.; specifying a condition under which a purchaser has control of a security entitlement; amending s. 678.1101, F.S.; modifying rules that determine a securities intermediary's jurisdiction; amending s. 678.3011, F.S.; providing for delivery of a certificated security to a purchaser; amending s. 678.3021, F.S.; eliminating a requirement that a purchaser of a certificated or uncertificated security receive delivery prior to acquiring all rights in the security; amending s. 678.5101, F.S.; prescribing rights of a purchaser of a security entitlement from an entitlement holder; amending ss. 680.1031, 680.303, 680.307, 680.309, F.S.; conforming cross-references; repealing ss. 679.101, 679.102, 679.103, 679.104, 679.105, 679.106, 679.107, 679.108, 679.109, 679.110, 679.112, 679.113, 679.114, 679.115, 679.116, F.S., relating to the short title, applicability, and definitions of ch. 679, F.S.; repealing ss. 679.201, 679.202, 679.203, 679.204, 679.205, 679.206, 679.207, 679.208, F.S., relating to the validity of security agreements and the rights of parties to such agreements; repealing ss. 679.301, 679.302, 679,303, 679.304, 679.305, 679.306, 679.307, 679.308, 679.309, 679.310, 679.311, 679.312, 679.313, 679.314, 679.315, 679.316, 679.317, 679.318, F.S., relating to rights of third parties, perfected and unperfected security interests, and rules of priority; repealing ss. 679.401, 679.4011, 679.402, 679.403, 679.404, 679.405, 679.406, 679.407, 679.408, F.S., relating to filing of security interests; repealing ss. 679.501, 679.502, 679.503, 679.504, 679.505, 679.506, 679.507, F.S., relating to rights of the parties upon default under a security agreement; providing effective dates.

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

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

CS/HB 455—A bill to be entitled An act relating to mortgage brokering and lending; amending s. 494.001, F.S.; defining the term "principal representative"; creating s. 494.00295, F.S.; providing license renewal educational requirements for licensees and principal representatives; amending s. 494.00311, F.S.; expanding the scope of mortgage business schools to include training for certain other persons; amending s. 494.0034, F.S.; adding continuing education requirements for mortgage broker license renewal; amending s. 494.0035, F.S.; requiring brokerage experience requirements for principal brokers; amending s. 494.0061, F.S.; providing educational requirements for mortgage lenders and principal representatives; requiring the designation of a principal representative; requiring testing of such persons; amending s. 494.0062, F.S.; providing educational requirements for correspondent mortgage lenders; requiring the designation of a principal representative; requiring the testing of such persons; amending s. 494.0064, F.S.; requiring licensees to submit certification of completion of certain educational requirements by certain persons; amending s. 494.0067, F.S.; requiring licensees to require loan originators and associates to complete certain continuing education programs; requiring licensees to maintain certain records; providing effective dates.

—was read the second time by title.

The Committee on Business Regulation offered the following:

(Amendment Bar Code: 960369)

Amendment 1—On page 2, line 26,
remove from the bill: *subparagraph*

and insert in lieu thereof: *subsection*

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

The Committee on Business Regulation offered the following:

(Amendment Bar Code: 871691)

Amendment 2—On page 9, line 30, of the bill, after the word *require*

insert: *the principal representative and*

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

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

HB 421—A bill to be entitled An act relating to mental health; directing the Department of Children and Family Services to develop and implement a pilot project to provide client-directed and choice-based mental health treatment and support services to certain adults; requiring an independent evaluation; providing evaluation criteria; requiring reports; providing an appropriation; providing for expiration; providing an effective date.

—was read the second time by title.

The Committee on Elder & Long-Term Care offered the following:

(Amendment Bar Code: 521651)

Amendment 1—On page 2, lines 23-27
remove from the bill: all said lines

and insert in lieu thereof:

Section 2. *The sum of $470,000 is appropriated for Fiscal Year 2001-2002 from the Alcohol, Drug Abuse and Mental Health Trust Fund in the Department of Children and Family Services for the purpose of implementing this act.*

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

Representative(s) Harrington offered the following:

(Amendment Bar Code: 392875)

Amendment 2 (with title amendment)—On page 2, between lines 27 and 28 of the bill

insert:

Section 3. *The department may reduce the population or beds in the mental health institutions it operates when adequate community-based services to meet the needs of the population have been established through contract and operating for six months in a specific hospital's catchment area. Evaluation to determine readiness of community-based services will be conducted by the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) in cooperation with the department.*

And the title is amended as follows:

On page 1, line 10 after the semicolon

insert: allowing the department to reduce under certain conditions the population or beds in the mental health institutions it operates when adequate community-based services to meet the needs of the population have been established; requiring an evaluation by Office of Program Policy Analysis and Governmental Accountability

Rep. Harrington moved the adoption of the amendment. Subsequently, **Amendment 2** was withdrawn.

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

CS/HB 605—A bill to be entitled An act relating to health care facilities; creating the Florida Alzheimer's Training Act; amending s. 400.4178, F.S.; revising training standards for employees of assisted living facilities that provide care for residents with Alzheimer's disease or related disorders; creating ss. 400.1755, 400.4786, 400.55715, and 400.626, F.S.; prescribing training standards for employees of nursing homes, home health agencies, adult day care centers, and adult family-care homes, respectively, that provide care for persons with Alzheimer's disease or related disorders; providing for training fees; prescribing duties of the Department of Elderly Affairs; directing the department to convene a working group to develop training guidelines; providing for membership; providing for compliance with guidelines within a certain time period; providing an effective date.

—was read the second time by title.

The Committee on Health & Human Services Appropriations offered the following:

(Amendment Bar Code: 105291)

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

and insert in lieu thereof:

Section 1. *This act may be cited as the "Florida Alzheimer's Training Act."*

Section 2. Section 400.1755, Florida Statutes, is created to read:

400.1755 Care for persons with Alzheimer's disease or other related disorders.—

(1) As a condition of licensure, facilities licensed under this part must provide to each of their employees, upon beginning employment, basic written information about interacting with persons with Alzheimer's disease or related disorders.

(2) All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with Alzheimer's disease or related disorders must, in addition to the information provided in subsection (1), have an initial training of at least 1 hour completed in the first 3 months after employment. This training shall include, but not be limited to, an overview of dementias and shall provide basic skills in communicating with persons with dementia.

(3) An individual who provides direct care shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning employment. This training shall include, but not be limited to, managing problem behaviors, promoting the resident's independence in activities of daily living, and skills in working with families and caregivers.

(a) For certified nursing assistants, the required 4 hours of training shall be part of the total hours of training required annually.

(b) For health care practitioners licensed pursuant to chapter 456, continuing education hours completed as required by the board shall be counted toward this total of 4 hours.

(4) For employees who are health care practitioners licensed pursuant to chapter 456, training that is sanctioned by the health care practitioner's board shall be considered to be approved by the Department of Elderly Affairs.

(5) The Department of Elderly Affairs or its designee shall approve the initial and continuing training provided to employees under this section. The department shall approve training offered in a variety of formats, including, but not limited to, Internet-based, video, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.

(6) Upon completing any training listed in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility or to an assisted living facility, home health agency or nurse registry, adult day care center, or adult family-care home. The direct caregiver must comply with other applicable continuing education requirements.

Section 3. Section 400.4786, Florida Statutes, is created to read:

400.4786 Care for persons with Alzheimer's disease or other related disorders.—

(1) As a condition of licensure, home health agencies and nurse registries licensed under this part must provide to each of their employees basic written information about interacting with persons with Alzheimer's disease or related disorders upon beginning employment.

(2) All employees who are expected to, or whose responsibilities require them to, have direct contact with clients with Alzheimer's disease or related disorders must, in addition to the information provided in subsection (1), have an initial training of at least 1 hour completed in the first 3 months after employment. This training shall include, but not be limited to, an overview of dementias and shall provide basic skills in communicating with persons with dementia.

(3) An individual who provides direct care shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning employment with the home health agency or nurse registry. This training shall include, but not be limited to, managing problem behaviors, promoting the client's independence in activities of daily living, and skills in working with families and caregivers.

(a) For certified nursing assistants, the required 4 hours of training shall be part of the total hours of training required annually.

(b) For health care practitioners licensed pursuant to chapter 456, continuing education hours completed as required by the board shall be counted toward this total of 4 hours.

(4) For employees who are health care practitioners licensed pursuant to chapter 456, training that is sanctioned by the health care practitioner's board shall be considered to be approved by the Department of Elderly Affairs.

(5) The Department of Elderly Affairs or its designee shall approve the initial and continuing training provided to employees under this section. The department shall approve training offered in a variety of formats, including, but not limited to, Internet-based, video, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.

(6) Upon completing any training listed in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different home health agency or nurse registry or to an assisted living facility, nursing home, adult day care center, or adult family-care home. The direct caregiver must comply with other applicable continuing education requirements.

Section 4. Section 400.55715, Florida Statutes, is created to read:

400.55715 Care for persons with Alzheimer's disease or other related disorders.—

(1) As a condition of licensure, adult day care centers licensed under this part must provide to each of their employees, upon beginning employment, basic written information about interacting with persons with Alzheimer's disease or related disorders.

(2) All employees who are expected to, or whose responsibilities require them to, have direct contact with clients with Alzheimer's disease or related disorders must, in addition to the information provided in subsection (1), have an initial training of at least 1 hour completed in the first 3 months after employment. This training shall include, but not be limited to, an overview of dementias and shall provide basic skills in communicating with persons with dementia.

(3) An individual who provides direct care shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning employment. This training shall include, but not be limited to, managing problem behaviors, promoting the client's independence in activities of daily living, and skills in working with families and caregivers.

(a) For certified nursing assistants, the required 4 hours of training shall be part of the total hours of training required annually.

(b) For health care practitioners licensed pursuant to chapter 456, continuing education hours completed as required by the board shall be counted toward this total of 4 hours.

(4) For employees who are health care practitioners licensed pursuant to chapter 456, training that is sanctioned by the health care practitioner's board shall be considered to be approved by the Department of Elderly Affairs.

(5) The Department of Elderly Affairs or its designee shall approve the initial and continuing training provided to employees under this section. The department shall approve training offered in a variety of formats, including, but not limited to, Internet-based, video, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.

(6) Upon completing any training listed in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different adult day care center or to an assisted living facility, nursing home, home health agency or nurse registry, or adult family-care home. The direct caregiver must comply with other applicable continuing education requirements.

Section 5. Section 400.626, Florida Statutes, is created to read:

400.626 Care for persons with Alzheimer's disease or other related disorders.—

(1) As a condition of licensure, adult family-care homes licensed under this part must provide to each of their employees, upon beginning employment, basic written information about interacting with persons with Alzheimer's disease or related disorders.

(2) All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with Alzheimer's disease or related disorders must, in addition to the information provided in subsection (1), have an initial training of at least 1 hour completed in the first 3 months after employment. This training shall include, but not be limited to, an overview of dementias and shall provide basic skills in communicating with persons with dementia.

(3) An individual who provides direct care shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning employment. This training shall include, but not be limited to, managing problem behaviors, promoting the resident's independence in activities of daily living, and skills in working with families and caregivers.

(a) For certified nursing assistants, the required 4 hours of training shall be part of the total hours of training required annually.

(b) For health care practitioners licensed pursuant to chapter 456, continuing education hours completed as required by the board shall be counted toward this total of 4 hours.

(4) For employees who are health care practitioners licensed pursuant to chapter 456, training that is sanctioned by the health care practitioner's board shall be considered to be approved by the Department of Elderly Affairs.

(5) The Department of Elderly Affairs or its designee shall approve the initial and continuing training provided to employees under this section. The department shall approve training offered in a variety of formats, including, but not limited to, Internet-based, video, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.

(6) Upon completing any training listed in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different adult family-care home or to an assisted living facility, nursing home, home health agency or nurse registry, or adult day care center. The direct caregiver must comply with other applicable continuing education requirements.

Section 6. *The training requirements established in this act shall apply to all new employees hired on or after July 1, 2002.*

Section 7. *The Department of Elderly Affairs may contract with a state university or statewide advocacy organization that possesses expertise in the area of Alzheimer's disease and related disorders to review potential trainers and training materials. The department may accept grants, donations, and gifts to meet the costs associated with providing the review and approval and the required training.*

Section 8. *A community care service system shall contain a dementia-specific care provider network to properly address the care of a person with dementia and the family of such person.*

Section 9. *The Legislature finds that appropriate care for persons with Alzheimer's disease and related disorders is an urgent health need in this state. Therefore, each state university, college, or postsecondary school that prepares undergraduate or graduate students in the healing arts regulated under chapter 456, Florida Statutes, is encouraged to include in its curriculum basic training about Alzheimer's disease and related disorders.*

Section 10. This act shall take effect July 1, 2001.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to health care facilities; creating the "Florida Alzheimer's Training Act"; creating ss. 400.1755, 400.4786, 400.55715, and 400.626, F.S.; prescribing information and training requirements for employees of nursing homes, home health agencies, nurse registries, adult day care centers, and adult family-care homes, respectively, that provide care for persons with Alzheimer's disease or related disorders; prescribing duties of the Department of Elderly Affairs; providing rulemaking authority; providing timeframe for compliance; authorizing the Department of Elderly Affairs to contract for review of trainers and training materials; providing for costs; providing that a community care service system shall contain a dementia-specific care provider network; encouraging inclusion of certain training in healing arts curricula; providing an effective date.

Rep. Maygarden moved the adoption of the amendment.

The Committee on Health & Human Services Appropriations offered the following:

(Amendment Bar Code: 053539)

Amendment 1 to Amendment 1—On page 3, between lines 11 and 12, page 5, between lines 6 and 7, page 6, after line 31, page 8, between lines 26 and 27, of the amendment

insert:

(7) The provisions of this section shall be implemented to the extent of available appropriations in the annual General Appropriations Act for such purpose.

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

Representative(s) Gibson offered the following:

(Amendment Bar Code: 780303)

Amendment 2 to Amendment 1 (with title amendment)—On page 7, between lines 3 & 4,

insert:

Section 5. Section 400.6045, Florida Statutes, is amended to read:

400.6045 Patients with Alzheimer's disease or other related disorders; certain disclosures*; training*.—

(1) A hospice licensed under this part which claims that it provides special care for persons who have Alzheimer's disease or other related disorders must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons. The hospice must give a copy of all such advertisements or a copy of the document to each person who requests information about programs and services for persons with Alzheimer's disease or other related disorders offered by the hospice and must maintain a copy of all such advertisements and documents in its records. The agency shall examine all such advertisements and documents in the hospice's records as part of the license renewal procedure.

(2) A hospice licensed under this part must provide to each of its employees, upon beginning employment, basic written information about interacting with persons with Alzheimer's disease or a related disorder.

(3) All employees who are expected to, or whose responsibilities require them to, have direct contact with patients with Alzheimer's disease or a related disorder must, in addition to being provided the information required in subsection (1), have an initial training of at least 1 hour completed in the first 3 months after beginning employment. This training shall include, but not be limited to, an overview of dementias and shall provide basic skills in communicating with persons with dementia.

(4) An individual who provides direct care to a person with Alzheimer's disease or a related disorder shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning to work with the hospice. This training shall include, but not be limited to, managing problem behaviors, promoting the patient's independence in activities of daily living, and skills in working with families and caregivers.

(a) For certified nursing assistants, the required 4 hours of training shall be part of the total hours of training required annually.

(b) For a health care practitioner as defined in s. 456.001, continuing education hours taken as required by that practitioner's licensing board shall be counted toward this total of 4 hours.

(5) For an employee who is a licensed health care practitioner as defined in s. 456.001, training that is sanctioned by that practitioner's licensing board shall be considered to be approved by the Department of Elderly Affairs.

(6) The Department of Elderly Affairs or its designee shall approve the initial and continuing training provided to employees or direct caregivers under this section. The department shall approve training

offered in a variety of formats, including, but not limited to, Internet-based, video, teleconferencing, and classroom instruction. The department shall keep a list of current providers who are approved to provide initial and continuing training. The department shall adopt rules to establish standards for the trainers and the training required in this section.

(7) Upon completing any training described in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different hospice or a home health agency, nurse registry, assisted living facility, nursing home, adult day care center, or adult family-care home. The direct caregiver must comply with other applicable continuing education requirements.

And the title is amended as follows: On page 9, line 29, through page 10, line 5, of the amendment
remove: all of said lines

and insert in lieu thereof: A bill to be entitled An act relating to health care facilities and programs; creating the "Florida Alzheimer's Training Act"; creating ss. 400.1755, 400.4786, 400.55715, and 400.626, F.S., and amending s. 400.6045, F.S.; prescribing training standards for employees of nursing homes, home health agencies, nurse registries, hospice programs, adult day care

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

Representative(s) Gibson offered the following:

(Amendment Bar Code: 101959)

Amendment 3 to Amendment 1—On page 9, line 21,
remove from the amendment: all of said line

and insert in lieu thereof:

Section 10. This act shall take effect October 1, 2001.

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

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

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

CS/CS/HB 411—A bill to be entitled An act relating to the Florida Mobile Home Act; amending s. 723.003, F.S.; defining the term "proportionate share"; amending s. 723.011, F.S.; requiring the Division of Florida Land Sales, Condominiums, and Mobile Homes to maintain specified records; requiring that copies be provided within a specified time after written request; amending s. 723.012, F.S.; revising provisions relating to statements in a prospectus; amending s. 723.037, F.S.; revising procedures for meetings that determine the status of changes in lot rentals; amending s. 723.061, F.S.; revising timeframes for giving notice of changes in lot rental amounts and use of mobile home parks; creating s. 723.0611, F.S.; creating the Florida Mobile Home Relocation Corporation; providing for a board of directors to be appointed by the Secretary of Business and Professional Regulation; providing for terms of office; specifying powers and duties of the board; authorizing the corporation to borrow from private finance sources; creating s. 723.0612, F.S.; providing for the payment of relocation expenses if a mobile home owner is required to move due to a change in use of the mobile home park; providing exceptions; specifying procedures for payments upon approval of the corporation; authorizing a mobile home owner to abandon the mobile home and collect one-fourth the amount of relocation expenses; providing a penalty; providing for recognition of existing contracts; providing an effective date.

—was read the second time by title.

Representative(s) Greenstein offered the following:

(Amendment Bar Code: 823281)

Amendment 1—On page 9, line 20, on page 14, line 18, and on page 15, lines 11 and 20,
remove from the bill: *land*

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

Representative(s) Greenstein offered the following:

(Amendment Bar Code: 155417)

Amendment 2—On page 9, lines 25, 26, and 29,
remove from the bill: land

and insert in lieu thereof: ~~land~~

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

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

THE SPEAKER IN THE CHAIR

HB 1415—A bill to be entitled An act relating to Medicaid environmental modification services; creating s. 409.9072, F.S.; providing for Medicaid enrollment of licensed general, building, and residential contractors as providers of environmental modification services for Medicaid recipients under any home and community-based services waiver program; providing a definition; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

On motion by Rep. Littlefield, consideration of **CS/HB 305** was temporarily postponed under Rule 11.10.

HB 1577 was taken up. On motion by Rep. Harrington, the rules were waived and CS for SB 972 was substituted for HB 1577. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 972—A bill to be entitled An act relating to water management district fiscal matters; amending s. 373.536, F.S.; revising notice and hearing provisions relating to the adoption of a final budget for the water management districts; specifying to whom a copy of the water management districts' tentative budgets must be sent for review; specifying the contents of the tentative budgets; requiring the Executive Office of the Governor to file with the Legislature a report summarizing its review of the water management districts' tentative budgets and displaying the adopted budget allocations by program area; requiring the water management districts to submit certain budget documents to specified officials; amending s. 373.079, F.S.; deleting a requirement that the water management districts submit a 5-year capital improvement plan and fiscal report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Environmental Protection; repealing s. 373.507, F.S., relating to postaudits and budgets of water management districts and basins; repealing s. 373.589, F.S., relating to audits of water management districts; amending s. 373.501, F.S.; providing procedures for the transfer of funds for proposed water management district projects; amending s. 373.59, F.S.; authorizing the use of the Water Management Lands Trust Fund for specified purposes other than acquisition; deleting a prospective repeal; amending s. 475.628, F.S.; recognizing certain appraisal methods; providing an effective date.

—was read the second time by title.

Representative(s) Harrington offered the following:

(Amendment Bar Code: 645527)

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

and insert in lieu thereof:

Section 1. Section 373.536, Florida Statutes, is amended to read:

373.536 District budget and hearing thereon.—

(1) *FISCAL YEAR.*—The fiscal year of districts created under the provisions of this chapter shall extend from October 1 of one year through September 30 of the following year.

(2) BUDGET SUBMITTAL.—The budget officer of the district shall, on or before July 15 of each year, submit for consideration by the governing board of the district a tentative budget for the district covering its proposed *operations* ~~operation~~ and *funding* requirements for the ensuing fiscal year.

(3) BUDGET HEARINGS AND WORKSHOPS; NOTICE.—

(a) Unless alternative notice requirements are otherwise provided by law, notice of all budget hearings conducted by the governing board or district staff must be published in a newspaper of general *paid* circulation in each county in which the district lies not less than 5 days nor more than 15 days before the hearing.

(b) Budget workshops conducted for the public and not governed by s. 200.065 must be advertised in a newspaper of general *paid* circulation in the community or area in which the workshop will occur not less than 5 days nor more than 15 days before the workshop.

(c) The tentative budget shall be adopted in accordance with the provisions of s. 200.065; however, if the mailing of the notice of proposed property taxes is delayed beyond September 3 in any county in which the district lies, the district shall advertise its intention to adopt a tentative budget and millage rate, pursuant to s. 200.065(3)(g), in a newspaper of general paid circulation in that county. ~~The budget shall set forth, classified by object and purpose, and by fund if so designated, the proposed expenditures of the district for bonds or other debt, for construction, for acquisition of land, for operation and maintenance of the district works, for the conduct of the affairs of the district generally, and for other purposes, to which may be added an amount to be held as a reserve. District administrative and operating expenses must be identified in the budget and allocated among district programs.~~

~~(2) The budget shall also show the estimated amount which will appear at the beginning of the fiscal year as obligated upon commitments made but uncompleted. There shall be shown the estimated unobligated or net balance which will be on hand at the beginning of the fiscal year, and the estimated amount to be raised by district taxes and from other sources for meeting the requirements of the district.~~

(d)~~(3)~~ As provided in s. 200.065(2)(d), the board shall publish one or more notices of its intention to ~~finally~~ adopt a *final* budget for the district for the ensuing fiscal year. The notice shall appear adjacent to an advertisement *that sets* ~~which shall set~~ forth the tentative budget *in a format meeting the budget summary requirements of s. 129.03(3)(b)* ~~in~~ full. *The district shall not include expenditures of federal special revenues and state special revenues when preparing the statement required by s. 200.065(3)(l).* The notice and advertisement shall be published in one or more newspapers having a combined general *paid* circulation in *each county* ~~the counties having land~~ in *which* the district *lies*. Districts may include explanatory phrases and examples in budget advertisements published under s. 200.065 to clarify or illustrate the effect that the district budget may have on ad valorem taxes.

(e)~~(4)~~ The hearing *for adoption of* ~~to finally adopt~~ a *final* budget and millage rate shall be by and before the governing board of the district as provided in s. 200.065 and may be continued from day to day until terminated by the board.

(4) BUDGET CONTROLS.—

(a) The final *adopted* budget for the district will thereupon be the operating and fiscal guide for the district for the ensuing year; however, transfers of funds may be made within the budget by action of the governing board at a public meeting of the governing board.

(b) The district shall control its budget, at a minimum, by funds and shall provide to the Executive Office of the Governor a description of its budget control mechanisms.

(c) Should the district receive unanticipated funds after the adoption of the final budget, the final budget may be amended by including such funds, so long as notice of intention to amend is published *in the notice of the governing board meeting at which the amendment will be considered, pursuant to s. 120.525* ~~one time in one or more newspapers qualified to accept legal advertisements having a combined general circulation in the counties in the district~~. The notice shall set forth *a summary of* the proposed amendment ~~and shall be published at least 10 days prior to the public meeting of the board at which the proposed amendment is to be considered~~. However, in the event of a disaster or of an emergency arising to prevent or avert the same, the governing board shall not be limited by the budget but shall have authority to apply such funds as may be available therefor or as may be procured for such purpose.

(5) *TENTATIVE BUDGET CONTENTS AND SUBMISSION; REVIEW AND APPROVAL.—*

(a) The Executive Office of the Governor is authorized to approve or disapprove, in whole or in part, the budget of each water management district and shall analyze each budget as to the adequacy of fiscal resources available to the district and the adequacy of district expenditures related to water supply, including water resource development projects identified in the district's regional water supply plans; water quality; flood protection and floodplain management; and natural systems. This analysis shall be based on the particular needs within each water management district in those four areas of responsibility.

(b) The Executive Office of the Governor and the water management districts shall develop a process to facilitate review and communication regarding water management district budgets, as necessary. Written disapproval of any provision in the tentative budget must be received by the district at least 5 business days prior to the final district budget adoption hearing conducted under s. 200.065(2)(d). If written disapproval of any portion of the budget is not received at least 5 business days prior to the final budget adoption hearing, the governing board may proceed with final adoption. Any provision rejected by the Governor shall not be included in a district's final budget.

(c) Each water management district shall, by August 1 of each year, submit for review a tentative budget to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees with substantive or fiscal jurisdiction over water management districts, *as determined by the President of the Senate or Speaker of the House of Representatives as applicable,* the secretary of the department, and the governing body of each county in which the district has jurisdiction or derives any funds for the operations of the district.

(d) The tentative budget must set forth the proposed expenditures of the district, to which may be added an amount to be held as reserve. The tentative budget must include, but is not limited to, the following information for the preceding fiscal year and the current fiscal year, and the proposed amounts for the upcoming fiscal year, in a standard format prescribed by the Executive Office of the Governor ~~which is generally consistent with the format prescribed by legislative budget instructions for state agencies and the format requirements of s. 216.031~~:

1. *The estimated amount of funds remaining at the beginning of the fiscal year which have been obligated for the payment of outstanding commitments not yet completed.*

2. The estimated amount of unobligated funds or net cash balance on hand at the beginning of the fiscal year, and the estimated amount of funds to be raised by district taxes or received from other sources to meet the requirements of the district.

3. The millage rates and the percentage increase above the rolled-back rate, together with a summary of the reasons the increase is

required, and the percentage increase in taxable value resulting from new construction *within the district*.;

4.~~2.~~ The *salaries* ~~salary~~ and benefits, expenses, operating capital outlay, number of authorized positions, and other personal services for the following program areas *of the district*~~, including a separate section for lobbying, intergovernmental relations, and advertising~~:

a. Water resource planning and monitoring;

b. Land acquisition, restoration, and public works;

c. Operation and maintenance of works and lands;

d. Regulation;

e. Outreach for which the information provided must contain a full description and accounting of expenditures for water resources education; public information and public relations, including public service announcements and advertising in any media; and lobbying activities related to local, regional, state and federal governmental affairs, whether incurred by district staff or through contractual services; and

f. Management and administration.

~~a. District management and administration;~~

~~b. Implementation through outreach activities;~~

~~c. Implementation through regulation;~~

~~d. Implementation through acquisition, restoration, and public works;~~

~~e. Implementation through operations and maintenance of lands and works;~~

~~f. Water resources planning and monitoring; and~~

~~g. A full description and accounting of expenditures for lobbying activities relating to local, regional, state, and federal governmental affairs, whether incurred by district staff or through contractual services and all expenditures for public relations, including all expenditures for public service announcements and advertising in any media.~~

In addition to the program areas reported by all water management districts, the South Florida Water Management District shall include in its budget document ~~a~~ separate *sections* ~~section~~ on all costs associated with the Everglades Construction Project *and the Comprehensive Everglades Restoration Plan*.

5.~~3.~~ The total *estimated* amount in the district budget for each area of responsibility listed in *subparagraph 4.* ~~paragraph (a)~~ and for water resource development projects identified in the district's regional water supply plans.

~~4. A 5-year capital improvements plan.~~

6.~~5.~~ A description of each new, expanded, reduced, or eliminated program.

~~6. A proposed 5-year water resource development work program, that describes the district's implementation strategy for the water resource development component of each approved regional water supply plan developed or revised pursuant to s. 373.0361. The work program shall address all the elements of the water resource development component in the district's approved regional water supply plans. The office of the Governor, with the assistance of the department, shall review the proposed work program. The review shall include a written evaluation of its consistency with and furtherance of the district's approved regional water supply plans, and adequacy of proposed expenditures. As part of the review, the Executive Office of the Governor and the department shall afford to all interested parties the opportunity to provide written comments on each district's proposed work program. At least 7 days prior to the adoption of its final budget, the governing board shall state in writing to the Executive Office of the Governor which changes recommended in the evaluation it will incorporate into its work program, or specify the reasons for not incorporating the changes. The office of the Governor shall include the district's responses in the written evaluation and shall submit a copy of the evaluation to the Legislature; and~~

7. The funding sources, including, but not limited to, ad valorem taxes, Surface Water Improvement and Management Program funds, other state funds, federal funds, and user fees and permit fees for each program area.

(e)~~(d)~~ By September 5 of the year in which the budget is submitted, the House and Senate appropriations chairs may transmit to each district comments and objections to the proposed budgets. Each district governing board shall include a response to such comments and objections in the record of the governing board meeting where final adoption of the budget takes place, and the record of this meeting shall be transmitted to the Executive Office of the Governor, the department, and the chairs of the House and Senate appropriations committees.

(f)~~(e)~~ The Executive Office of the Governor shall annually, on or before December 15, file with the Legislature a report that summarizes *its review* ~~the expenditures~~ of the water management *districts' tentative budgets and displays the adopted budget allocations* ~~districts~~ by program area*. The report must identify* ~~and identifies~~ the districts that are not in compliance with the reporting requirements of this section. State funds shall be withheld from a water management district that fails to comply with these reporting requirements.

(6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN; WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

(a) Each district must, by the date specified for each item, furnish copies of the following documents to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees having substantive or fiscal jurisdiction over the districts, as determined by the President or Speaker as applicable, the secretary of the department, and the governing board of each county in which the district has jurisdiction or derives any funds for the operations of the district;

1. The adopted budget, to be furnished within 10 days after its adoption.

2. A financial audit of its accounts and records, to be furnished within 10 days after its acceptance by the governing board. The audit must be conducted in accordance with the provisions of s. 11.45 and the rules adopted thereunder. In addition to the entities named above, the district must provide a copy of the audit to the Auditor General within 10 days after its acceptance by the governing board.

3. A 5-year capital improvements plan, to be furnished within 45 days after the adoption of the final budget. The plan must include expected sources of revenue for planned improvements and must be prepared in a manner comparable to the fixed capital outlay format set forth in s. 216.043.

4. A 5-year water resource development work program to be furnished within 45 days after the adoption of the final budget. The program must describe the district's implementation strategy for the water resource development component of each approved regional water supply plan developed or revised under s. 373.0361. The work program must address all the elements of the water resource development component in the district's approved regional water supply plans. Within 45 days after its submittal, the department shall review the proposed work program and submit its findings, questions, and comments to the district. The review must include a written evaluation of the program's consistency with the furtherance of the district's approved regional water supply plans, and the adequacy of proposed expenditures. As part of the review, the department shall give interested parties the opportunity to provide written comments on each district's proposed work program. Within 60 days after receipt of the department's evaluation, the governing board shall state in writing to the department which changes recommended in the evaluation it will incorporate into its work program or specify the

reasons for not incorporating the changes. The department shall include the district's responses in a final evaluation report and shall submit a copy of the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(b) If any entity listed in paragraph (a) provides written comments to the district regarding any document furnished under this subsection, the district must respond to the comments in writing and furnish copies of the comments and written responses to the other entities.

Section 2. Paragraph (b) of subsection (4) of section 373.079, Florida Statutes, is amended to read:

373.079 Members of governing board; oath of office; staff.—

(4)

(b)1. The governing board of each water management district shall employ an inspector general, who shall report directly to the board. However, the governing boards of the Suwannee River Water Management District and the Northwest Florida Water Management District may jointly employ an inspector general, or provide for inspector general services by interagency agreement with a state agency or water management district inspector general.

2. An inspector general must have the qualifications prescribed and perform the applicable duties of state agency inspectors general as provided in s. 20.055.

~~3. Within 45 days of the adoption of the final budget, the governing board shall submit a 5-year capital improvement plan and fiscal report for the district to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Environmental Protection. The capital improvement plan must include expected sources of revenue for planned improvements and shall be prepared in a manner comparable to the fixed capital outlay format set forth in s. 216.043. The fiscal report shall cover the preceding fiscal year and shall include a summary statement of the financial operations of the district.~~

Section 3. Section 373.501, Florida Statutes, is amended to read:

373.501 Appropriation of funds to water management districts.—

(1) The department may allocate to the water management districts, from funds appropriated to the department, such sums as may be deemed necessary to defray the costs of the administrative, regulatory, and other activities of the districts. The governing boards shall submit annual budget requests for such purposes to the department, and the department shall consider such budgets in preparing its budget request for the Legislature.

(2) Funds appropriated by the Legislature for the purpose of funding a specific water management district project shall be transferred to the water management district when the proposed project has been reviewed by the secretary of the pertinent state agency and upon receipt of a governing board resolution requesting such funds.

Section 4. Subsection (11) of section 373.59, Florida Statutes, is amended to read:

373.59 Water Management Lands Trust Fund.—

(11) Notwithstanding any provision of this section to the contrary, ~~and for the 2000-2001 fiscal year only,~~ the governing board of a water management district may request, and the Secretary of Environmental Protection shall release upon such request, moneys allocated to the districts pursuant to subsection (8) for ~~the purpose of carrying out the~~ purposes *consistent with the provisions* of s. 373.0361, *s. 373.0831* ~~s. 375.0831~~, s. 373.139, or ss. 373.451-373.4595 and for legislatively authorized land acquisition and water restoration initiatives. No funds may be used pursuant to this subsection until necessary debt service obligations, requirements for payments in lieu of taxes, and land management obligations that may be required by this chapter are provided for. ~~This subsection is repealed on July 1, 2001~~.

Section 5. *Sections 373.507 and 373.589, Florida Statutes, are repealed.*

Section 6. Section 153.11, Florida Statutes, is amended to read:

153.11 Water service charges and sewer service charges; revenues.—

(1)(a) The county commission shall in the resolution providing for the issuance of either water revenue bonds or sewer revenue bonds, or both, fix the initial schedule of rates, *rate structures,* fees*,* and other charges for the use of and for the services furnished or to be furnished by the facilities, to be paid by the owner, tenant or occupant of each lot or parcel of land which may be connected with and use any such facility by or through any part of the water system of the county.

(b) After the system or systems shall have been in operation the county commission may revise *the* ~~such~~ schedule of rates, *rate structures,* fees*,* and charges from time to time. Such rates, *rate structures,* fees*,* and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times to pay the cost of maintaining, repairing and operating the system or systems including the reserves for such purposes and for replacements and depreciation and necessary extensions, to pay the principal of and the interest on the water revenue bonds and/or sewer revenue bonds as the same shall become due and the reserves therefor, and to provide a margin of safety for making such payments. *The county commission may establish rates or rate structures in such a manner as to encourage and promote water conservation and the use of reclaimed water for nonpotable uses.* The county commission shall charge and collect the rates, fees*,* and charges so fixed or revised*,* and *the* ~~such~~ rates, *rate structures,* fees*,* and charges shall not be subject to supervision or regulation by any other commission, board, bureau*,* or agency of the county or of the state or of any sanitary district or other political subdivision of the state.

(c) Such rates, *rate structures,* fees*,* and charges shall be just and equitable and may be based or computed upon the quantity of water consumed and/or upon the number and size of sewer connections or upon the number and kind of plumbing fixtures in use in the premises connected with the sewer system or upon the number or average number of persons residing or working in or otherwise connected with such premises or upon any other factor affecting the use of the facilities furnished or upon any combination of the foregoing factors.

(d) In cases where the amount of water furnished to any building or premises is such that it imposes an unreasonable burden upon the water supply system an additional charge may be made therefor or the county commission may if it deems advisable compel the owners or occupants of such building or premises to reduce the amount of water consumed thereon in a manner to be specified by the county commission or the county commission may refuse to furnish water to such building or premises.

(e) In cases where the character of the sewage from any manufacturing or industrial plant or any building or premises is such that it imposes an unreasonable burden upon any sewage disposal system, an additional charge may be made therefor, or the county commission may, if it deems it advisable, compel such manufacturing or industrial plant or such building or premises to treat such sewage in such manner as shall be specified by the county commission before discharging such sewage into any sewer lines owned or maintained by the county.

(2) The county commission may charge any owner or occupant of any building or premise receiving the services of the facilities herein provided such initial installation or connection charge or fee as the commission may determine to be just and reasonable.

(3)(a) No rates, *rate structures,* fees*,* or charges shall be fixed under the foregoing provisions of this section until after a public hearing at which all of the users of the facilities provided by this chapter and owners, tenants and occupants of property served or to be served thereby and all others interested shall have an opportunity to be heard concerning the proposed rates, *rate structures,* fees*,* and charges. After the adoption by the county commission of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, *rate*

structures, fees, and charges, notice of such public hearing setting forth the schedule or schedules of rates, *rate structures,* fees, and charges shall be given by one publication in a newspaper published in the county at least 10 days before the date fixed in said notice for the hearing, which said hearing may be adjourned from time to time. After such hearing such preliminary schedule or schedules, either as originally adopted or as modified or amended, shall be adopted and put into effect and thereupon the resolution providing for the issuance of water revenue bonds and/or sewer revenue bonds may be finally adopted.

(b) A copy of the schedule or schedules of such rates, *rate structures,* fees, and charges finally fixed in such resolution shall be kept on file in the office of the clerk of the circuit court in the county and shall be open to inspection by all parties interested. The rates, *rate structures,* fees, or charges so fixed for any class of users or property served shall be extended to cover any additional property thereafter served which fall within the same class without the necessity of any hearing or notice.

(c) Any change or revision of any rates, *rate structures,* fees, or charges may be made in the same manner as such rates, *rate structures,* fees, or charges were originally established as hereinabove provided, but if such change or revision be made substantially pro rata as to all classes of service no notice or hearing shall be required.

Section 7. Subsection (13) is added to section 163.3167, Florida Statutes, to read:

163.3167 Scope of act.—

(13) Each local government shall address in its comprehensive plan the availability of water supplies necessary to meet the projected water use demands for the established planning period, compatible with any applicable plan developed pursuant to s. 373.036.

Section 8. Paragraph (a) of subsection (3), paragraph (a) of subsection (4), and paragraph (c) of subsection (6) of section 163.3177, Florida Statutes, are amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(3)(a) The comprehensive plan shall contain a capital improvements element designed to consider the need for and the location of public facilities in order to encourage the efficient utilization of such facilities and set forth:

1. A component which outlines principles for construction, extension, or increase in capacity of public facilities, *including potable water facilities compatible with the applicable regional water supply plan developed pursuant to s. 373.0361,* as well as a component which outlines principles for correcting existing public facility deficiencies, which are necessary to implement the comprehensive plan. The components shall cover at least a 5-year period.

2. Estimated public facility costs, including a delineation of when facilities will be needed, the general location of the facilities, and projected revenue sources to fund the facilities.

3. Standards to ensure the availability of public facilities and the adequacy of those facilities including acceptable levels of service.

4. Standards for the management of debt.

(4)(a) Coordination of the local comprehensive plan with the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region; *with any applicable plan developed pursuant to s. 373.036;* with adopted rules pertaining to designated areas of critical state concern; and with the state comprehensive plan shall be a major objective of the local comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, and in the comprehensive plan or element as adopted, the governing body shall include a specific policy statement indicating the relationship of the proposed development of the area to the comprehensive plans of adjacent municipalities, the county, adjacent counties, or the region and to the state comprehensive plan, as the case may require and as such adopted plans or plans in preparation may exist.

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge element correlated to principles and guidelines for future land use, indicating ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer recharge protection requirements for the area. The element may be a detailed engineering plan including a topographic map depicting areas of prime groundwater recharge. The element shall describe the problems and needs and the general facilities that will be required for solution of the problems and needs. The element shall also include a topographic map depicting any areas adopted by a regional water management district as prime groundwater recharge areas for the Floridan or Biscayne aquifers, pursuant to s. 373.0395. These areas shall be given special consideration when the local government is engaged in zoning or considering future land use for said designated areas. For areas served by septic tanks, soil surveys shall be provided which indicate the suitability of soils for septic tanks. *By October 1, 2002, the element shall also include data and analyses, based upon the appropriate plan developed pursuant to s. 373.036, that evaluate the availability of potable water compared to population growth projected by the future land use plan.*

Section 9. Paragraph (k) is added to subsection (2) of section 373.1961, Florida Statutes, to read:

373.1961 Water production.—

(2) The Legislature finds that, due to a combination of factors, vastly increased demands have been placed on natural supplies of fresh water, and that, absent increased development of alternative water supplies, such demands may increase in the future. The Legislature also finds that potential exists in the state for the production of significant quantities of alternative water supplies, including reclaimed water, and that water production includes the development of alternative water supplies, including reclaimed water, for appropriate uses. It is the intent of the Legislature that utilities develop reclaimed water systems, where reclaimed water is the most appropriate alternative water supply option, to deliver reclaimed water to as many users as possible through the most cost-effective means, and to construct reclaimed water system infrastructure to their owned or operated properties and facilities where they have reclamation capability. It is also the intent of the Legislature that the water management districts which levy ad valorem taxes for water management purposes should share a percentage of those tax revenues with water providers and users, including local governments, water, wastewater, and reuse utilities, municipal, industrial, and agricultural water users, and other public and private water users, to be used to supplement other funding sources in the development of alternative water supplies. The Legislature finds that public moneys or services provided to private entities for such uses constitute public purposes which are in the public interest. In order to further the development and use of alternative water supply systems, including reclaimed water systems, the Legislature provides the following:

(k) The Florida Public Service Commission shall allow entities under its jurisdiction constructing alternative water supply facilities, including but not limited to aquifer storage and recovery wells, to recover the full, prudently incurred cost of such facilities through their rate structure. Every component of an alternative water supply facility constructed by an investor-owned utility shall be recovered in current rates.

Section 10. Subsection (2) of section 373.217, Florida Statutes, is amended to read:

373.217 Superseded laws and regulations.—

(2) It is the further intent of the Legislature that Part II of the Florida Water Resources Act of 1972, as amended, as set forth in ss. 373.203-373.249, shall provide the exclusive authority for requiring permits for the consumptive use of water and for authorizing transportation thereof pursuant to s. 373.223(2). *Nothwithstanding the provisions of Chapter 163, the issuance of a permit under this part shall be a conclusive determination of the availability of water supplies,*

including ground and surface water resources and alternative water supplies, for the use authorized by such permit.

Section 11. Section 373.621, Florida Statutes, is created to read:

373.621 Water conservation.—The Legislature recognizes the significant value of water conservation in the protection and efficient use of water resources. Accordingly, additional consideration in the administration of ss. 373.223, 373.233, and 373.236 shall be given to applicants who implement water conservation practices pursuant to s. 570.080 or other applicable water conservation measures as determined by the department or water management district.

Section 12. Section 403.064, Florida Statutes, is amended to read:

403.064 Reuse of reclaimed water.—

(1) The encouragement and promotion of water conservation, and reuse of reclaimed water, as defined by the department, are state objectives and are considered to be in the public interest. *The Legislature finds that the reuse of reclaimed water is a critical component of meeting the state's existing and future water supply needs while sustaining natural systems.* The Legislature *further* finds that for those wastewater treatment plants permitted and operated under an approved reuse program by the department, the reclaimed water shall be considered environmentally acceptable and not a threat to public health and safety.

(2) All applicants for permits to construct or operate a domestic wastewater treatment facility located within, serving a population located within, or discharging within a water resource caution area shall prepare a reuse feasibility study as part of their application for the permit. Reuse feasibility studies shall be prepared in accordance with department guidelines adopted by rule and shall include, but are not limited to:

(a) Evaluation of monetary costs and benefits for several levels and types of reuse.

(b) Evaluation of water savings if reuse is implemented.

(c) Evaluation of rates and fees necessary to implement reuse.

(d) Evaluation of environmental and water resource benefits associated with reuse.

(e) Evaluation of economic, environmental, and technical constraints.

(f) A schedule for implementation of reuse. The schedule shall consider phased implementation.

(3) The permit applicant shall prepare a plan of study for the reuse feasibility study consistent with the reuse feasibility study guidelines adopted by department rule. The plan of study shall include detailed descriptions of applicable treatment and water supply alternatives to be evaluated and the methods of analysis to be used. The plan of study shall be submitted to the department for review and approval.

(4)~~(3)~~ The study required under subsection (2) shall be performed by the applicant, and the applicant *shall determine the feasibility of reuse based upon the results of the study,* ~~'s determination of feasibility is final~~ if the study complies with the requirements of subsections (2) *and (3)*.

(5)~~(4)~~ A reuse feasibility study is not required if:

(a) The domestic wastewater treatment facility has an existing or proposed permitted or design capacity less than 0.1 million gallons per day; or

(b) The permitted reuse capacity equals or exceeds the total permitted capacity of the domestic wastewater treatment facility.

(6)~~(5)~~ A reuse feasibility study prepared under subsection (2) satisfies a water management district requirement to conduct a reuse feasibility study imposed on a local government or utility that has responsibility for wastewater management.

(7)~~(6)~~ Local governments may allow the use of reclaimed water for inside activities, including, but not limited to, toilet flushing, fire protection, and decorative water features, as well as for outdoor uses, provided the reclaimed water is from domestic wastewater treatment facilities which are permitted, constructed, and operated in accordance with department rules.

(8)~~(7)~~ Permits issued by the department for domestic wastewater treatment facilities shall be consistent with requirements for reuse included in applicable consumptive use permits issued by the water management district, if such requirements are consistent with department rules governing reuse of reclaimed water. This subsection applies only to domestic wastewater treatment facilities which are located within, or serve a population located within, or discharge within water resource caution areas and are owned, operated, or controlled by a local government or utility which has responsibility for water supply and wastewater management.

(9)~~(8)~~ Local governments may and are encouraged to implement programs for the reuse of reclaimed water. Nothing in this chapter shall be construed to prohibit or preempt such local reuse programs.

(10)~~(9)~~ A local government that implements a reuse program under this section shall be allowed to allocate the costs in a reasonable manner.

(11)~~(10)~~ Pursuant to chapter 367, the Florida Public Service Commission shall allow entities under its jurisdiction which conduct studies or implement reuse projects, including, but not limited to, any study required by subsection (2) or facilities used for reliability purposes for a reclaimed water reuse system, to recover the full, prudently incurred cost of such studies and facilities through their rate structure.

(12)~~(11)~~ In issuing consumptive use permits, the permitting agency shall consider the local reuse program.

(13)~~(12)~~ A local government shall require a developer, as a condition for obtaining a development order, to comply with the local reuse program.

(14)~~(13) If,~~ After conducting a feasibility study under subsection (2), ~~an applicant determines that reuse of reclaimed water is feasible,~~ domestic wastewater treatment facilities that dispose of effluent by Class I deep well injection, as defined in 40 C.F.R. part 144.6(a), must implement reuse ~~according to the schedule for implementation contained in the study conducted under subsection (2),~~ to the degree that reuse is ~~determined~~ feasible*, based upon the applicant's reuse feasibility study*. Applicable permits issued by the department shall be consistent with the requirements of this subsection.

(a) This subsection does not limit the use of a Class I deep well injection facility as backup for a reclaimed water reuse system.

(b) This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution area.

(15)~~(14) If,~~ After conducting a feasibility study under subsection (2), ~~an applicant determines that reuse of reclaimed water is feasible,~~ domestic wastewater treatment facilities that dispose of effluent by surface water discharges or by land application methods must implement reuse ~~according to the schedule for implementation contained in the study conducted under subsection (2),~~ to the degree that reuse is ~~determined~~ feasible*, based upon the applicant's reuse feasibility study.*. This subsection does not apply to surface water discharges or land application systems which are currently categorized as reuse under department rules. Applicable permits issued by the department shall be consistent with the requirements of this subsection.

(a) This subsection does not limit the use of a surface water discharge or land application facility as backup for a reclaimed water reuse system.

(b) This subsection applies only to domestic wastewater treatment facilities located within, serving a population located within, or discharging within a water resource caution area.

Section 13. Section 570.080, Florida Statutes, is created to read:

570.080 Agricultural water conservation program.—The department shall establish an agricultural water conservation program which includes the following:

(1) A cost share program, coordinated where appropriate with United States Department of Agriculture and other federal, state, regional, and local agencies, for irrigation system retrofit and application of mobile irrigation laboratory evaluations for water conservation as provided in this section, and where applicable, for water quality improvement pursuant to s. 403.067(7)(d).

(2) The development and implementation of voluntary interim measures or best management practices, adopted by rule, which provide for increased efficiencies in the utilization and management of water for agricultural production. In the process of developing and adopting rules for interim measures or best management practices, the department shall consult with the Department of Environmental Protection and the water management districts. Such rules may also include a system to ensure the implementation of the interim measures or best management practices, including record keeping requirements. As new information regarding efficient agricultural water use and management becomes available the department shall reevaluate, and revise as needed, the interim measures or best management practices. The interim measures or best management practices may include irrigation retrofit, implementation of mobile irrigation laboratory evaluations and recommendations, water resource augmentation, and integrated water management systems for drought management and flood control and should, to the maximum extend practicable, be designed to qualify for regulatory and other incentives, as determined by the agency having applicable statutory authority.

(3) Provision of assistance to the water management districts in the development and implementation of a consistent, to the extent practicable, methodology for the efficient allocation of water for agricultural irrigation.

Section 14. *The South Florida, St. Johns River, and Southwest Florida Water Management Districts shall each develop and participate in financing at least one public-private alternative water project that expands the current availability of alternative water supplies. Funding for the selected project shall commence no later than fiscal year 2001-2002. The selected project shall meet the criteria in s. 373.0831(4)(a). Projects that create new sources in order to help implement a prevention or recovery strategy for a minimum flow or level shall be given priority consideration for funding.*

Section 15. *As a result of ongoing drought conditions throughout the state and in order to aid in the development of a better understanding of Florida's unique surface and ground water sources, it is the intent of the Legislature that the water management districts undertake a coordinated effort to develop an illustrative public service program that depicts the current status of major surface and ground water sources. This program shall be designed to provide information that shows the water levels of aquifers and water bodies that are critical to water supplies within each water management district. It is the intent of the Legislature that the districts develop partnerships with the local media to assist in the dissemination of this information. Further, it is the intent of the Legislature that this program be developed and made available no later than December 31, 2001. Beginning January 1, 2002, and every six months thereafter, the information developed pursuant to this section shall be submitted to the appropriate legislative committees with substantive jurisdiction over the water management districts.*

Section 16. Subsection (7) of section 373.0693, Florida Statutes, is amended to read:

373.0693 Basins; basin boards.—

(7) At 11:59 p.m. on December 31, 1976, the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District, which is annexed to the Southwest Florida Water Management District by change of its boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the Southwest Florida Water Management District, subject to the same provisions as the other basins in such district. Such subdistrict shall be designated initially as the Manasota Basin. The members of the governing board of the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District shall become members of the governing board of the Manasota Basin of the Southwest Florida Water Management District. *Notwithstanding other provisions in this section, beginning on July 1, 2001, the membership of the Manasota Basin Board shall be comprised of three members from Manatee County and three members from Sarasota County. Matters relating to tie votes shall be resolved pursuant to subsection (6) by the ex officio chair designated by the governing board to vote in case of a tie vote.*

Section 17. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2 through page 2 line 5
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to water resources; amending s. 373.536, F.S.; revising notice and hearing provisions relating to the adoption of a final budget for the water management districts; specifying to whom a copy of the water management districts' tentative budgets must be sent for review; specifying the contents of the tentative budgets; requiring the Executive Office of the Governor to file with the Legislature a report summarizing its review of the water management districts' tentative budgets and displaying the adopted budget allocations by program area; requiring the water management districts to submit certain budget documents to specified officials; amending s. 373.079, F.S.; deleting a requirement that the water management districts submit a 5-year capital improvement plan and fiscal report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Environmental Protection; amending s. 373.501, F.S.; providing procedures for the transfer of funds for proposed water management district projects; amending s. 373.59, F.S.; authorizing the use of the Water Management Trust Fund for specified purposes other than acquisition; repealing s. 373.507, F.S., relating to postaudits and budgets of water management districts and basins; repealing s. 373.589, F.S., relating to audits of water management districts; amending s. 153.11, F.S.; authorizing county commissions to establish water and sewer rates and rate structures to encourage and promote water conservation and the use of reclaimed water; amending s. 163.3167, F.S.; requiring that each local government provide in its growth management plan for the long-term availability of water supplies for approved land development; amending s. 163.3177, F.S.; directing local government comprehensive plans to coordinate with regional water supply plans; directing future land use plans to be based on data regarding the availability of sufficient water supplies for present and future growth; amending s. 373.1961, F.S.; allowing certain alternative water supply facilities to recover the costs of such facilities through rate structures; amending s. 373.217, F.S.; recognizing a permit issued under Part II of Chapter 373, F.S., as conclusive determination of water supply availability; creating s. 373.621, F.S.; recognizing the significance of water conservation; requiring consideration of the implementation of water conservation practices in water use permitting; amending s. 403.064, F.S.; requiring the reuse of reclaimed water when feasible; creating s. 570.080, F.S.; establishing an agricultural water conservation program; requiring water management districts to develop and finance public-private alternative water supply projects; requiring the dissemination of public information regarding the status of major water sources; amending s. 373.0693, F.S.; providing for membership on the Manasota Basin Board and for the resolution of tie votes; providing an effective date.

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

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

HB 1077—A bill to be entitled An act relating to health care; creating s. 456.41, F.S.; authorizing provision of and access to complementary or alternative health care treatments; requiring patients to be provided with certain information regarding such treatments; requiring the

keeping of certain records; providing effect on the practice acts; amending s. 381.026, F.S.; revising the Florida Patient's Bill of Rights and Responsibilities to include the right to access any mode of treatment the patient or the patient's health care practitioner believes is in the patient's best interests; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HM 1161—A memorial to the Federal Emergency Management Agency, urging the agency to adopt a policy towards the Florida Keys that is consistent with Florida law and its own policy.

WHEREAS, under the Florida Statute of Limitations, section 95.11(3)(c), Florida Statutes, Judge Richard Payne ruled on October 6, 2000, that Monroe County could not enforce removal of downstairs enclosures that were built over 4 years prior to enforcement action, and

WHEREAS, the Federal Emergency Management Agency (FEMA), in a letter dated July 29, 1991, threatened to suspend Monroe County from the National Flood Insurance Program (NFIP) if the county established a 4-year limitation on code violations, and

WHEREAS, FEMA, in a letter to Monroe County dated December 12, 2000, from its Associate Director for Mitigation, Michael J. Armstrong, stated that if Monroe County did not appeal Judge Payne's ruling of October 6, 2000, FEMA would consider this action as a defect in the county's floodplain management program, and

WHEREAS, Monroe County was denied a rehearing on January 19, 2001, by Judge Payne to reconsider the ruling to remove all illegal downstairs enclosures, and

WHEREAS, FEMA records show that Monroe County has a high participation and a low claim history in the NFIP, and

WHEREAS, 76,000 pre-firm structures, out of 4.3 million pre-firm structures that have had two or more losses since 1978, represent 33 percent of all losses paid by FEMA, and

WHEREAS, only 1.9 million pre-firm structures out of 4.3 million pre-firm structures have their lowest floors above base flood level, and it is punitive to mandate that Monroe County remove more than 4,000 downstairs enclosures because they are below base flood level, and

WHEREAS, 23 percent of NFIP claim dollars paid from 1978 to 1996 went to areas not identified as special hazard flood areas, and

WHEREAS, Texas and Louisiana account for 40 percent of all repeated flood claims (1.1 billion), and

WHEREAS, with the exception of Key Biscayne, the majority of repeated flood claims comes from the gulf coast on the top half of the State of Florida, and

WHEREAS, the current FEMA policy towards the Florida Keys is arbitrary, capricious, and inconsistent with its national policy, and its enforcement of a special pilot program does not align with FEMA's own stated goals, and

WHEREAS, the enforcement of FEMA's pilot program is inconsistent with Florida law and would create enormous economic hardships on the economy of the Florida Keys, and

WHEREAS, the removal of more than 4,000 downstairs enclosures would work against the stated policy of the Department of Community Affairs to provide affordable housing for the people of Monroe County, and

WHEREAS, the Florida Legislature recognizes that Monroe County must follow the laws of the State of Florida and its circuit judges, NOW, THEREFORE,

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

That the Federal Emergency Management Agency is requested to adopt a policy toward the Florida Keys that is consistent with Florida law and its own national policy.

BE IT FURTHER RESOLVED that copies of this memorial be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, each member of the Florida delegation to the United States Congress, and the Director of the Federal Emergency Management Agency.

—was read the second time by title. On motion by Rep. Sorensen, the memorial was adopted. The vote was:

Session Vote Sequence: 205

Yeas—115

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

Nays—None

Under the Rule, the memorial was immediately certified to the Senate.

HB 1225—A bill to be entitled An act relating to economic development; amending s. 212.096, F.S.; revising a definition and defining "jobs"; increasing the enterprise zone jobs credit against the sales tax and revising the method of computing the credit; providing an increased credit for a business located in a rural enterprise zone; increasing the period during which the credit may be allowed; amending s. 212.098, F.S.; providing that a business eligible for the qualified target industry business tax refund is eligible for the rural job tax credit program; amending s. 220.03, F.S.; revising a definition and defining "jobs"; amending s. 220.181, F.S.; increasing the enterprise zone jobs credit against the corporate income tax and revising the method of computing the credit; providing an increased credit for a business located in a rural enterprise zone; increasing the period during which the credit may be allowed; amending s. 288.018, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to contract with Enterprise Florida, Inc., to administer the Regional Rural Development Grants Program; creating s. 288.0185, F.S.; directing the member agencies of the Rural Economic Development Initiative (REDI) to review and develop modifications for grant and loan application evaluation criteria and scoring procedures to ensure access for rural counties and providing requirements with respect thereto; providing for review of future rules, programs, criteria, and processes; creating s. 288.019, F.S.; directing the REDI member agencies to develop proposals to waive or reduce financial match requirements for projects in rural communities; authorizing use of certain funds or donations as matches; creating s.

288.0195, F.S.; providing for review by REDI agencies of state agency proposed rules; amending s. 288.065, F.S.; providing that an economic development organization substantially underwritten by a unit of local government is eligible for loans under the Rural Community Development Revolving Loan Fund Program; amending s. 290.004, F.S.; defining "rural enterprise zone"; deleting obsolete definitions; amending ss. 290.0055, 290.0056, and 290.0058, F.S.; correcting obsolete references; deleting a time limitation on submission of applications for enterprise zone boundary changes; amending s. 290.0065, F.S.; including Enterprise Florida, Inc., in certain duties relating to designation of enterprise zones; including rural champion communities in areas that may be designated as state rural enterprise zones; providing for the development of certain guidelines by the Office of Tourism, Trade, and Economic Development in consultation with other agencies; revising requirements relating to amendment of boundaries of enterprise zones designated by the state; creating s. 290.00676, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to amend the boundaries of a rural enterprise zone and providing requirements with respect thereto; creating s. 290.00677, F.S.; modifying the employee residency requirements for the enterprise zone job credit against the sales tax and corporate income tax, if the business is located in a rural enterprise zone; modifying the employee residency requirements for maximum exemptions or credits with respect to the sales tax credits for building materials used in the rehabilitation of real property in an enterprise zone, for business property used in an enterprise zone, and for electrical energy used in an enterprise zone, and the corporate income tax enterprise zone property tax credit, if the business is located in a rural enterprise zone; creating s. 290.00694, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate rural champion communities or communities within a designated rural area of critical economic concern as enterprise zones; providing requirements with respect thereto; providing an effective date.

—was read the second time by title.

The Committee on Economic Development & International Trade offered the following:

(Amendment Bar Code: 933717)

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

and insert in lieu thereof: Paragraphs (g) and (h) of subsection (5) of section 212.08, Florida Statutes, are amended, and paragraph (q) is added to that subsection, to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(g) Building materials used in the rehabilitation of real property located in an enterprise zone.—

1. Beginning July 1, 1995, building materials used in the rehabilitation of real property located in an enterprise zone shall be exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the items have been used for the rehabilitation of real property located in an enterprise zone. Except as provided in subparagraph 2., this exemption inures to the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone only through a refund of previously paid taxes. To receive a refund pursuant to this paragraph, the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone must file an application under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, which includes:

a. The name and address of the person claiming the refund.

b. An address and assessment roll parcel number of the rehabilitated real property in an enterprise zone for which a refund of previously paid taxes is being sought.

c. A description of the improvements made to accomplish the rehabilitation of the real property.

d. A copy of the building permit issued for the rehabilitation of the real property.

e. A sworn statement, under the penalty of perjury, from the general contractor licensed in this state with whom the applicant contracted to make the improvements necessary to accomplish the rehabilitation of the real property, which statement lists the building materials used in the rehabilitation of the real property, the actual cost of the building materials, and the amount of sales tax paid in this state on the building materials. In the event that a general contractor has not been used, the applicant shall provide this information in a sworn statement, under the penalty of perjury. Copies of the invoices which evidence the purchase of the building materials used in such rehabilitation and the payment of sales tax on the building materials shall be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of building materials used in the rehabilitation of real property and the payment of sales taxes due thereon is documented by a general contractor or by the applicant in this manner, the cost of such building materials shall be an amount equal to 40 percent of the increase in assessed value for ad valorem tax purposes.

f. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the rehabilitated real property is located.

g. A certification by the local building code inspector that the improvements necessary to accomplish the rehabilitation of the real property are substantially completed.

h. Whether the business is a small business as defined by s. 288.703(1).

i. If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

2. This exemption inures to a city, county, ~~or~~ other governmental agency*, or nonprofit community-based organization* through a refund of previously paid taxes if the building materials used in the rehabilitation of real property located in an enterprise zone are paid for from the funds of a community development block grant*, State Housing Initiatives Partnership Program,* or similar grant or loan program. To receive a refund pursuant to this paragraph, a city, county, ~~or~~ other governmental agency*, or nonprofit community-based organization* must file an application which includes the same information required to be provided in subparagraph 1. by an owner, lessee, or lessor of rehabilitated real property. In addition, the application must include a sworn statement signed by the chief executive officer of the city, county, ~~or~~ other governmental agency*, or nonprofit community-based organization* seeking a refund which states that the building materials for which a refund is sought were paid for from the funds of a community development block grant*, State Housing Initiatives Partnership Program,* or similar grant or loan program.

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to subparagraph 1. or subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the information required pursuant to subparagraph 1. or subparagraph 2. and meet the criteria set out in this paragraph as eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The applicant shall be responsible for

forwarding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund pursuant to this paragraph must be submitted to the department within 6 months after the rehabilitation of the property is deemed to be substantially completed by the local building code inspector *or within 90 days after the rehabilitated property is first subject to assessment*.

5. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. No more than one exemption through a refund of previously paid taxes for the rehabilitation of real property shall be permitted for any one parcel of real property. No refund shall be granted pursuant to this paragraph unless the amount to be refunded exceeds $500. No refund granted pursuant to this paragraph shall exceed the lesser of 97 percent of the Florida sales or use tax paid on the cost of the building materials used in the rehabilitation of the real property as determined pursuant to sub-subparagraph 1.e. or $5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount of refund granted pursuant to this paragraph shall not exceed the lesser of 97 percent of the sales tax paid on the cost of such building materials or $10,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund.

6. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the rehabilitated real property is located and shall transfer that amount to the General Revenue Fund.

8. For the purposes of the exemption provided in this paragraph:

a. "Building materials" means tangible personal property which becomes a component part of improvements to real property.

b. "Real property" has the same meaning as provided in s. 192.001(12).

c. "Rehabilitation of real property" means the reconstruction, renovation, restoration, rehabilitation, construction, or expansion of improvements to real property.

d. "Substantially completed" has the same meaning as provided in s. 192.042(1).

9. The provisions of this paragraph shall expire and be void on December 31, 2005.

(h) Business property used in an enterprise zone.—

1. Beginning July 1, 1995, business property purchased for use by businesses located in an enterprise zone which is subsequently used in an enterprise zone shall be exempt from the tax imposed by this chapter. This exemption inures to the business only through a refund of previously paid taxes. A refund shall be authorized upon an affirmative showing by the taxpayer to the satisfaction of the department that the requirements of this paragraph have been met.

2. To receive a refund, the business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, an application which includes:

a. The name and address of the business claiming the refund.

b. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located.

c. A specific description of the property for which a refund is sought, including its serial number or other permanent identification number.

d. The location of the property.

e. The sales invoice or other proof of purchase of the property, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the property was purchased.

f. Whether the business is a small business as defined by s. 288.703(1).

g. If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the information required pursuant to subparagraph 2. and meet the criteria set out in this paragraph as eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The business shall be responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund pursuant to this paragraph must be submitted to the department within 6 months after the *tax is due on the* business property *that* is purchased.

5. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. The amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or $5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or $10,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund. No refund shall be granted under this paragraph unless the amount to be refunded exceeds $100 in sales tax paid on purchases made within a 60-day time period.

6. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. If the department determines that the business property is used outside an enterprise zone within 3 years from the date of purchase, the amount of taxes refunded to the business purchasing such business property shall immediately be due and payable to the department by the business, together with the appropriate interest and penalty, computed from the date of purchase, in the manner provided by this chapter. Notwithstanding this subparagraph, business property used exclusively in:

a. Licensed commercial fishing vessels,

b. Fishing guide boats, or

c. Ecotourism guide boats

that leave and return to a fixed location within an area designated under s. 370.28 are eligible for the exemption provided under this paragraph if all requirements of this paragraph are met. Such vessels and boats must be owned by a business that is eligible to receive the exemption provided under this paragraph. This exemption does not apply to the purchase of a vessel or boat.

8. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the

amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the business property is located and shall transfer that amount to the General Revenue Fund.

9. For the purposes of this exemption, "business property" means new or used property defined as "recovery property" in s. 168(c) of the Internal Revenue Code of 1954, as amended, except:

a. Property classified as 3-year property under s. 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

b. Industrial machinery and equipment as defined in sub-subparagraph (b)6.a. and eligible for exemption under paragraph (b); ~~and~~

c. Building materials as defined in sub-subparagraph (g)8.a.*; and*

d. Business property having a sales price of under $500 per unit.

10. The provisions of this paragraph shall expire and be void on December 31, 2005.

(q) Community contribution tax credit for donations.—

1. Authorization.—Beginning July 1, 2001, persons who are registered with the department under s. 212.18 to collect or remit sales or use tax and who make donations to eligible sponsors are eligible for tax credits against their state sales and use tax liabilities as provided in this paragraph:

a. The credit shall be computed as 50 percent of the person's approved annual community contribution;

b. The credit shall be granted as a refund against state sales and use taxes reported on returns and remitted in the 12 months preceding the date of application to the department for the credit as required in sub–subparagraph 3.c. If the annual credit is not fully used through such refund because of insufficient tax payments during the applicable 12–month period, the unused amount may be included in an application for a refund made pursuant to sub–subparagraph 3.c. in subsequent years against the total tax payments made for such year. Carryover credits may be applied for a 3–year period without regard to any time limitation that would otherwise apply under s. 215.26;

c. No person shall receive more than $200,000 in annual tax credits for all approved community contributions made in any one year;

d. All proposals for the granting of the tax credit shall require the prior approval of the Office of Tourism, Trade, and Economic Development;

e. The total amount of tax credits which may be granted for all programs approved under this paragraph, s. 220.183, and s. 624.5105 is $20 million annually; and

f. A person who is eligible to receive the credit provided for in this paragraph, s. 220.183, or s. 624.5105 may receive the credit only under the one section of the person's choice.

2. Eligibility requirements.—

a. A community contribution by a person must be in the following form:

(I) Cash or other liquid assets;

(II) Real property;

(III) Goods or inventory; or

(IV) Other physical resources as identified by the Office of Tourism, Trade, and Economic Development.

b. All community contributions must be reserved exclusively for use in a project. As used in this sub-subparagraph, the term "project" means any activity undertaken by an eligible sponsor which is designed to construct, improve, or substantially rehabilitate housing that is affordable to low-income or very–low–income households as defined in s. 420.9071(19) and (28); designed to provide commercial, industrial, or public resources and facilities; or designed to improve entrepreneurial and job–development opportunities for low–income persons. A project may be the investment necessary to increase access to high-speed broadband capability in rural communities with enterprise zones, including projects that result in improvements to communications assets that are owned by a business. This paragraph does not preclude projects that propose to construct or rehabilitate housing for low-income or very–low–income households on scattered sites. The Office of Tourism, Trade, and Economic Development may reserve up to 50 percent of the available annual tax credits for housing for very–low–income households pursuant to s. 420.9071(28) for the first 6 months of the fiscal year. With respect to housing, contributions may be used to pay the following eligible low-income and very–low–income housing-related activities:

(I) Project development impact and management fees for low-income or very–low–income housing projects;

(II) Down payment and closing costs for eligible persons, as defined in s. 420.9071(19) and (28);

(III) Administrative costs, including housing counseling and marketing fees, not to exceed 10 percent of the community contribution, directly related to low-income or very–low–income projects; and

(IV) Removal of liens recorded against residential property by municipal, county, or special-district local governments when satisfaction of the lien is a necessary precedent to the transfer of the property to an eligible person, as defined in s. 420.9071(19) and (28), for the purpose of promoting home ownership. Contributions for lien removal must be received from a nonrelated third party.

c. The project must be undertaken by an "eligible sponsor," which includes:

(I) A community action program;

(II) A nonprofit community–based development organization whose mission is the provision of housing for low–income or very–low–income households or increasing entrepreneurial and job–development opportunities for low–income persons;

(III) A neighborhood housing services corporation;

(IV) A local housing authority created under chapter 421;

(V) A community redevelopment agency created under s. 163.356;

(VI) The Florida Industrial Development Corporation;

(VII) An historic preservation district agency or organization;

(VIII) A regional workforce board;

(IX) A direct–support organization as provided in s. 240.551;

(X) An enterprise zone development agency created under s. 290.0056;

(XI) A community–based organization incorporated under chapter 617 which is recognized as educational, charitable, or scientific pursuant to s. 501(c)(3) of the Internal Revenue Code and whose by–laws and articles of incorporation include affordable housing, economic development, or community development as the primary mission of the corporation;

(XII) Units of local government;

(XIII) Units of state government; or

(XIV) Any other agency that the Office of Tourism, Trade, and Economic Development designates by rule.

In no event may a contributing person have a financial interest in the eligible sponsor.

d. The project must be located in an area designated an enterprise zone or a Front Porch Florida community pursuant to s. 14.2015(9)(b), unless the project increases access to high-speed broadband capability for rural communities with enterprise zones but is physically located outside

the designated rural zone boundaries. Any project designed to construct or rehabilitate housing for low–income or very–low–income households as defined in s. 420.0971(19) and (28) is exempt from the area requirement of this sub–subparagraph.

3. Application requirements.—

a. Any eligible sponsor seeking to participate in this program must submit a proposal to the Office of Tourism, Trade, and Economic Development which sets forth the name of the sponsor, a description of the project and the area in which the project is located, together with such supporting information as is prescribed by rule. The proposal must also contain a resolution from the local governmental unit in which the project is located certifying that the project is consistent with local plans and regulations.

b. Any person seeking to participate in this program must submit an application for tax credit to the Office of Tourism, Trade, and Economic Development which sets forth the name of the sponsor, a description of the project, and the type, value, and purpose of the contribution. The sponsor shall verify the terms of the application and indicate its receipt of the contribution, which verification must be in writing and accompany the application for tax credit. The person must submit a separate tax credit application to the office for each individual contribution that it makes to each individual project.

c. Any person who has received notification from the Office of Tourism, Trade, and Economic Development that a tax credit has been approved must apply to the department to receive the refund. Application must be made on the form prescribed for claiming refunds of sales and use taxes and be accompanied by a copy of the notification. A person may submit only one application for refund to the department within any 12–month period.

4. Administration.—

a. The Office of Tourism, Trade, and Economic Development may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to administer this paragraph, including rules for the approval or disapproval of proposals by a person.

b. The decision of the Office of Tourism, Trade, and Economic Development must be in writing, and, if approved, the notification shall state the maximum credit allowable to the person. Upon approval, the office shall transmit a copy of the decision to the Department of Revenue.

c. The Office of Tourism, Trade, and Economic Development shall periodically monitor all projects in a manner consistent with available resources to ensure that resources are used in accordance with this paragraph; however, each project must be reviewed at least once every 2 years.

d. The Office of Tourism, Trade, and Economic Development shall, in consultation with the Department of Community Affairs, the Florida Housing Finance Corporation, and the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community–based organizations.

5. Expiration.—This paragraph expires June 30, 2005; however, any accrued credit carryover that is unused on that date may be used until the expiration of the 3–year carryover period for such credit.

Section 1. Effective January 1, 2002, section 212.096, Florida Statutes, is amended to read:

212.096 Sales, rental, storage, use tax; enterprise zone jobs credit against sales tax.—

(1) For the purposes of the credit provided in this section:

(a) "Eligible business" means any sole proprietorship, firm, partnership, corporation, bank, savings association, estate, trust, business trust, receiver, syndicate, or other group or combination, or successor business, located in an enterprise zone. *The business must demonstrate to the department that the total number of full-time jobs defined under paragraph (d) has increased from the average of the previous 12 months. The term "eligible business" includes a business that added a minimum of five new full-time jobs in an enterprise zone between July 1, 2000, and December 31, 2001.* An eligible business does not include any business which has claimed the credit permitted under s. 220.181 for any new business employee first beginning employment with the business after July 1, 1995.

(b) "Month" means either a calendar month or the time period from any day of any month to the corresponding day of the next succeeding month or, if there is no corresponding day in the next succeeding month, the last day of the succeeding month.

(c) "New employee" means a person residing in an enterprise zone~~, a qualified Job Training Partnership Act classroom training participant,~~ or a *participant in the* welfare transition program ~~participant~~ who begins employment with an eligible business after July 1, 1995, and who has not been previously employed *full-time* within the preceding 12 months by the eligible business, or a successor eligible business, claiming the credit allowed by this section.

(d) "Jobs" means full–time positions, as consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation resulting directly from a business operation in this state. This number may not include temporary construction jobs involved with the construction of facilities or any jobs that have previously been included in any application for tax credits under s. 220.181(1). The term "jobs" also includes employment of an employee leased from an employee leasing company licensed under chapter 468 if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.

(e) "New job has been created" means that the total number of full-time jobs has increased in an enterprise zone from the average of the previous 12 months, as demonstrated to the department by a business located in the enterprise zone.

A person shall be deemed to be employed if the person performs duties in connection with the operations of the business on a regular, full-time basis, provided the person is performing such duties for an average of at least 36 hours per week each month~~, or a part-time basis, provided the person is performing such duties for an average of at least 20 hours per week each month throughout the year~~. The person must be performing such duties at a business site located in the enterprise zone.

(2)(a) It is the legislative intent to encourage the provision of meaningful employment opportunities which will improve the quality of life of those employed and to encourage economic expansion of enterprise zones and the state. Therefore, beginning *January* ~~July~~ 1, *2002* ~~1995~~, upon an affirmative showing by *an eligible* ~~a~~ business to the satisfaction of the department that the requirements of this section have been met, the business shall be allowed a credit against the tax remitted under this chapter.

(b) The credit shall be computed as *20* ~~follows:~~

~~1. Ten~~ percent of the *actual* monthly wages paid in this state to each new employee *hired when a new job has been created, unless the business is located within a rural enterprise zone pursuant to s. 290.004(8), in which case the credit shall be 30 percent of the actual monthly wages paid* ~~whose wages do not exceed $1,500 a month~~. If no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the credit shall be computed as *30* ~~15~~ percent of the *actual* monthly wages paid in this state to each new employee *hired when a new job has been created, unless the business is located within a rural enterprise zone, in which case the credit shall be 45 percent of the actual monthly wages paid.*~~;~~

~~2. Five percent of the first $1,500 of actual monthly wages paid in this state for each new employee whose wages exceed $1,500 a month; or~~

~~3. Fifteen percent of the first $1,500 of actual monthly wages paid in this state for each new employee who is a WAGES Program participant pursuant to chapter 414.~~

For purposes of this paragraph, monthly wages shall be computed as one-twelfth of the expected annual wages paid to such employee. The amount paid as wages to a new employee is the compensation paid to such employee that is subject to unemployment tax. The credit shall be allowed for up to *24* ~~12~~ consecutive months, beginning with the first tax return due pursuant to s. 212.11 after approval by the department.

(3) In order to claim this credit, an eligible business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, a statement which includes:

(a) For each new employee for whom this credit is claimed, the employee's name and place of residence, including the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides if the new employee is a person residing in an enterprise zone, and, if applicable, documentation that the employee is a ~~qualified Job Training Partnership Act classroom training participant or a~~ welfare transition program participant.

(b) If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

(c) The name and address of the eligible business.

(d) The starting salary or hourly wages paid to the new employee.

(e) Demonstration to the department that the total number of full–time jobs defined under paragraph (1)(d) has increased in an enterprise zone from the average of the previous 12 months.

(f)~~(e)~~ The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located.

(g)~~(f)~~ Whether the business is a small business as defined by s. 288.703(1).

(h)~~(g)~~ Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to this subsection and meets the criteria set out in this section. The governing body or agency shall certify all applications that contain the information required pursuant to this subsection and meet the criteria set out in this section as eligible to receive a credit. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The business shall be responsible for forwarding a certified application to the department within the time specified in paragraph *(i)* ~~(h)~~.

(i)~~(h)~~ All applications for a credit pursuant to this section must be submitted to the department within *6* 4 months after the new employee is hired.

(4) Within 10 working days after receipt of a completed application for a credit authorized in this section, the department shall inform the business that the application has been approved. The credit may be taken on the first return due after receipt of approval from the department.

(5)~~(4)~~ In the event the application is *incomplete or* insufficient to support the credit authorized in this section, the department shall deny the credit and notify the business of that fact. The business may reapply for this credit.

(6)~~(5)~~ The credit provided in this section does not apply:

(a) For any new employee who is an owner, partner, or stockholder of an eligible business.

(b) For any new employee who is employed for any period less than 3 ~~full~~ calendar months.

(7)~~(6)~~ The credit provided in this section shall not be allowed for any month in which the tax due for such period or the tax return required pursuant to s. 212.11 for such period is delinquent.

(8)~~(7)~~ In the event an eligible business has a credit larger than the amount owed the state on the tax return for the time period in which the credit is claimed, the amount of the credit for that time period shall be the amount owed the state on that tax return.

(9)~~(8)~~ Any business which has claimed this credit shall not be allowed any credit under the provisions of s. 220.181 for any new employee beginning employment after July 1, 1995.

(10)~~(9)~~ It shall be the responsibility of each business to affirmatively demonstrate to the satisfaction of the department that it meets the requirements of this section.

(11)~~(10)~~ Any person who fraudulently claims this credit is liable for repayment of the credit plus a mandatory penalty of 100 percent of the credit plus interest at the rate provided in this chapter, and such person is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(12)~~(11)~~ The provisions of this section, except for subsection *(11)* ~~(10)~~, ~~shall~~ expire ~~and be void on~~ December 31, 2005.

Section 2. Effective January 1, 2002, section 212.098, Florida Statutes, is amended to read:

212.098 Rural Job Tax Credit Program.—

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

(a) "Eligible business" means any sole proprietorship, firm, partnership, or corporation that is located in a qualified county and is predominantly engaged in, or is headquarters for a business predominantly engaged in, activities usually provided for consideration by firms classified within the following standard industrial classifications: SIC 01-SIC 09 (agriculture, forestry, and fishing); SIC 20-SIC 39 (manufacturing); SIC 422 (public warehousing and storage); SIC 70 (hotels and other lodging places); SIC 7391 (research and development); SIC 7992 (public golf courses); ~~and~~ SIC 7996 (amusement parks)*; and a targeted industry eligible for the qualified target industry business tax refund under s. 288.106*. A call center or similar customer service operation that services a multistate market or an international market is also an eligible business. In addition, the Office of Tourism, Trade, and Economic Development may, as part of its final budget request submitted pursuant to s. 216.023, recommend additions to or deletions from the list of standard industrial classifications used to determine an eligible business, and the Legislature may implement such recommendations. Excluded from eligible receipts are receipts from retail sales, except such receipts for hotels and other lodging places classified in SIC 70, public golf courses in SIC 7992, and amusement parks in SIC 7996. For purposes of this paragraph, the term "predominantly" means that more than 50 percent of the business's gross receipts from all sources is generated by those activities usually provided for consideration by firms in the specified standard industrial classification. The determination of whether the business is located in a qualified county and the tier ranking of that county must be based on the date of application for the credit under this section. Commonly owned and controlled entities are to be considered a single business entity.

(b) "Qualified employee" means any employee of an eligible business who performs duties in connection with the operations of the business on a regular, full-time basis for an average of at least 36 hours per week for at least 3 months within the qualified county in which the eligible business is located. *The term also includes an employee leased from an employee leasing company licensed under chapter 468, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.* An owner or partner of the eligible business is not a qualified employee.

(c) "Qualified *area* ~~county~~" means *any area that is contained within a rural area of critical economic concern designated under s. 288.0656,*

a county that has a population of fewer than 75,000 persons, or any county that has a population of 100,000 or less and is contiguous to a county that has a population of less than 75,000, selected in the following manner: every third year, the Office of Tourism, Trade, and Economic Development shall rank and tier the state's counties according to the following four factors:

1. Highest unemployment rate for the most recent 36-month period.

2. Lowest per capita income for the most recent 36-month period.

3. Highest percentage of residents whose incomes are below the poverty level, based upon the most recent data available.

4. Average weekly manufacturing wage, based upon the most recent data available.

~~Tier-one qualified counties are those ranked 1-5 and represent the state's least-developed counties according to this ranking. Tier-two qualified counties are those ranked 6-10, and tier-three counties are those ranked 11-17. Notwithstanding this definition, "qualified county" also means a county that contains an area that has been designated as a federal Enterprise Community pursuant to the 1999 Agricultural Appropriations Act. Such a designated area shall be ranked in tier three until the areas are reevaluated by the Office of Tourism, Trade, and Economic Development.~~

(d) "New business" means any eligible business first beginning operation on a site in a qualified county and clearly separate from any other commercial or business operation of the business entity within a qualified county. A business entity that operated an eligible business within a qualified county within the 48 months before the period provided for application by subsection (2) is not considered a new business.

(e) "Existing business" means any eligible business that does not meet the criteria for a new business.

(2) A new eligible business may apply for a tax credit under this subsection once at any time during its first year of operation. A new eligible business in a tier-one qualified *area that* ~~county which~~ has at least 10 qualified employees on the date of application shall receive a *$1,000* ~~$1,500~~ tax credit for each such employee. ~~A new eligible business in a tier-two qualified county which has at least 20 qualified employees on the date of application shall receive a $1,000 tax credit for each such employee. A new eligible business in a tier-three qualified county which has at least 30 qualified employees on the date of application shall receive a $500 tax credit for each such employee.~~

(3) An existing eligible business may apply for a tax credit under this subsection at any time it is entitled to such credit, except as restricted by this subsection. An existing eligible business *with fewer than 50 employees* in a ~~tier-one~~ qualified *area that* ~~county which~~ on the date of application has at least *20 percent* ~~5~~ more qualified employees than it had 1 year prior to its date of application shall receive a *$1,000* ~~$1,500~~ tax credit for each such additional employee. An existing ~~eligible~~ business *that has 50 employees or more in a qualified area that, on the date of application, has at least 10 more qualified employees than it had 1 year prior to its date of application shall receive a $1,000 tax credit for each additional employee.* ~~in a tier-two qualified county which on the date of application has at least 10 more qualified employees than it had 1 year prior to its date of application shall receive a $1,000 credit for each such additional employee. An existing business in a tier-three qualified county which on the date of application has at least 15 more qualified employees than it had 1 year prior to its date of application shall receive a $500 tax credit for each such additional employee. An existing business may apply for the credit under this subsection no more than once in any 12-month period.~~ Any existing eligible business that received a credit under subsection (2) may not apply for the credit under this subsection sooner than 12 months after the application date for the credit under subsection (2).

(4) For any new eligible business receiving a credit pursuant to subsection (2), an additional $500 credit shall be provided for any qualified employee who is a welfare transition program participant. For any existing eligible business receiving a credit pursuant to subsection (3), an additional $500 credit shall be provided for any qualified employee who is a welfare transition program participant. Such employee must be employed on the application date and have been employed less than 1 year. This credit shall be in addition to other credits pursuant to this section regardless of the tier-level of the county. Appropriate documentation concerning the eligibility of an employee for this credit must be submitted as determined by the department.

(5) To be eligible for a tax credit under subsection (3), the number of qualified employees employed 1 year prior to the application date must be no lower than the number of qualified employees on the application date on which a credit under this section was based for any previous application, including an application under subsection (2).

(6)(a) In order to claim this credit, an eligible business must file under oath with the Office of Tourism, Trade, and Economic Development a statement that includes the name and address of the eligible business, the starting salary or hourly wages paid to the new employee, and any other information that the Department of Revenue requires.

(b) Within 30 working days after receipt of an application for credit, the Office of Tourism, Trade, and Economic Development shall review the application to determine whether it contains all the information required by this subsection and meets the criteria set out in this section. Subject to the provisions of paragraph (c), the Office of Tourism, Trade, and Economic Development shall approve all applications that contain the information required by this subsection and meet the criteria set out in this section as eligible to receive a credit.

(c) The maximum credit amount that may be approved during any calendar year is $5 million. The Department of Revenue, in conjunction with the Office of Tourism, Trade, and Economic Development, shall notify the governing bodies in areas designated as qualified counties when the $5 million maximum amount has been reached. Applications must be considered for approval in the order in which they are received without regard to whether the credit is for a new or existing business. This limitation applies to the value of the credit as contained in approved applications. Approved credits may be taken in the time and manner allowed pursuant to this section.

(d) A business may not receive more than $500,000 of tax credits during any one calendar year for its efforts in creating jobs.

(7) If the application is insufficient to support the credit authorized in this section, the Office of Tourism, Trade, and Economic Development shall deny the credit and notify the business of that fact. The business may reapply for this credit within 3 months after such notification.

(8) If the credit under this section is greater than can be taken on a single tax return, excess amounts may be taken as credits on any tax return submitted within 12 months after the approval of the application by the department.

(9) It is the responsibility of each business to affirmatively demonstrate to the satisfaction of the Department of Revenue that it meets the requirements of this section.

(10) Any person who fraudulently claims this credit is liable for repayment of the credit plus a mandatory penalty of 100 percent of the credit and is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(11) A corporation may take the credit under this section against its corporate income tax liability, as provided in s. 220.1895. However, a corporation that uses its job tax credit against the tax imposed by chapter 220 may not receive the credit provided for in this section. A credit may be taken against only one tax.

(12) The department shall adopt rules governing the manner and form of applications for credit and may establish guidelines as to the requisites for an affirmative showing of qualification for the credit under this section.

Section 3. *Reduction or waiver of financial match requirements.—Notwithstanding any other law, the member agencies and organizations of the Rural Economic Development Initiative (REDI), as defined in section 288.0656(6)(a), Florida Statutes, shall review the financial match requirements for projects in rural areas as defined in section 288.0656(2)(b), Florida Statutes.*

(1) Each agency and organization shall develop a proposal to waive or reduce the match requirement for rural areas.

(2) Agencies and organizations shall ensure that all proposals are submitted to the Office of Tourism, Trade, and Economic Development for review by the REDI agencies.

(3) These proposals shall be delivered to the Office of Tourism, Trade, and Economic Development for distribution to the REDI agencies and organizations. A meeting of REDI agencies and organizations must be called within 30 days after receipt of such proposals for REDI comment and recommendations on each proposal.

(4) Waivers and reductions must be requested by the county or community, and such county or community must have three or more of the factors identified in section 288.0656(2)(a), Florida Statutes.

(5) Any other funds available to the project may be used for financial match of federal programs when there is fiscal hardship and the match requirements may not be waived or reduced.

(6) When match requirements are not reduced or eliminated, donations of land, though usually not recognized as an in–kind match, may be permitted.

(7) To the fullest extent possible, agencies and organizations shall expedite the rule adoption and amendment process if necessary to incorporate the reduction in match by rural areas in fiscal distress.

(8) REDI shall include in its annual report an evaluation on the status of changes to rules, number of awards made with waivers, and recommendations for future changes.

Section 4. Subsection (1) of section 220.03, Florida Statutes, is amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(a) "Ad valorem taxes paid" means 96 percent of property taxes levied for operating purposes and does not include interest, penalties, or discounts foregone. In addition, the term "ad valorem taxes paid," for purposes of the credit in s. 220.182, means the ad valorem tax paid on new or additional real or personal property acquired to establish a new business or facilitate a business expansion, including pollution and waste control facilities, or any part thereof, and including one or more buildings or other structures, machinery, fixtures, and equipment. The provisions of this paragraph shall expire and be void on June 30, 2005.

(b) "Affiliated group of corporations" means two or more corporations which constitute an affiliated group of corporations as defined in s. 1504(a) of the Internal Revenue Code.

(c) "Business" or "business firm" means any business entity authorized to do business in this state as defined in paragraph (e), and any bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the provisions of this chapter. The provisions of this paragraph shall expire and be void on June 30, 2005.

(d) "Community contribution" means the grant by a business firm of any of the following items:

1. Cash or other liquid assets.

2. Real property.

3. Goods or inventory.

4. Other physical resources as identified by the department.

The provisions of this paragraph shall expire and be void on June 30, 2005.

(e) "Corporation" includes all domestic corporations; foreign corporations qualified to do business in this state or actually doing business in this state; joint-stock companies; limited liability companies, under chapter 608; common-law declarations of trust, under chapter 609; corporations not for profit, under chapter 617; agricultural cooperative marketing associations, under chapter 618; professional service corporations, under chapter 621; foreign unincorporated associations, under chapter 622; private school corporations, under chapter 623; foreign corporations not for profit which are carrying on their activities in this state; and all other organizations, associations, legal entities, and artificial persons which are created by or pursuant to the statutes of this state, the United States, or any other state, territory, possession, or jurisdiction. The term "corporation" does not include proprietorships, even if using a fictitious name; partnerships of any type, as such; limited liability companies that are taxable as partnerships for federal income tax purposes; state or public fairs or expositions, under chapter 616; estates of decedents or incompetents; testamentary trusts; or private trusts.

(f) "Department" means the Department of Revenue of this state.

(g) "Director" means the executive director of the Department of Revenue and, when there has been an appropriate delegation of authority, the executive director's delegate.

(h) "Earned," "accrued," "paid," or "incurred" shall be construed according to the method of accounting upon the basis of which a taxpayer's income is computed under this code.

(i) "Emergency," as used in s. 220.02 and in paragraph (u) of this subsection, means occurrence of widespread or severe damage, injury, or loss of life or property proclaimed pursuant to s. 14.022 or declared pursuant to s. 252.36. The provisions of this paragraph shall expire and be void on June 30, 2005.

(j) "Enterprise zone" means an area in the state designated pursuant to s. 290.0065. The provisions of this paragraph shall expire and be void on June 30, 2005.

(k) "Expansion of an existing business," for the purposes of the enterprise zone property tax credit, means any business entity authorized to do business in this state as defined in paragraph (e), and any bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the provisions of this chapter, located in an enterprise zone, which expands by or through additions to real and personal property and which establishes five or more new jobs to employ five or more additional full-time employees at such location. The provisions of this paragraph shall expire and be void on June 30, 2005.

(l) "Fiscal year" means an accounting period of 12 months or less ending on the last day of any month other than December or, in the case of a taxpayer with an annual accounting period of 52-53 weeks under s. 441(f) of the Internal Revenue Code, the period determined under that subsection.

(m) "Includes" or "including," when used in a definition contained in this code, shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2000, except as provided in subsection (3).

(o) "Local government" means any county or incorporated municipality in the state. The provisions of this paragraph shall expire and be void on June 30, 2005.

(p) "New business," for the purposes of the enterprise zone property tax credit, means any business entity authorized to do business in this state as defined in paragraph (e), or any bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the

provisions of this chapter, first beginning operations on a site located in an enterprise zone and clearly separate from any other commercial or industrial operations owned by the same entity, bank, or savings and loan association and which establishes five or more new jobs to employ five or more additional full-time employees at such location. The provisions of this paragraph shall expire and be void on June 30, 2005.

(q) "New employee," for the purposes of the enterprise zone jobs credit, means a person residing in an enterprise zone~~, a qualified Job Training Partnership Act classroom training participant,~~ or a ~~WAGES Program~~ participant *in the welfare transition program who is* employed at a business located in an enterprise zone who begins employment in the operations of the business after July 1, 1995, and who has not been previously employed *full-time* within the preceding 12 months by the business or a successor business claiming the credit pursuant to s. 220.181. A person shall be deemed to be employed by such a business if the person performs duties in connection with the operations of the business on a full-time basis, provided she or he is performing such duties for an average of at least 36 hours per week each month~~, or a part-time basis, provided she or he is performing such duties for an average of at least 20 hours per week each month throughout the year~~. *The term "jobs" also includes employment of an employee leased from an employee leasing company licensed under chapter 468, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.* The person must be performing such duties at a business site located in an enterprise zone. The provisions of this paragraph shall expire and be void on June 30, 2005.

(r) "Nonbusiness income" means rents and royalties from real or tangible personal property, capital gains, interest, dividends, and patent and copyright royalties, to the extent that they do not arise from transactions and activities in the regular course of the taxpayer's trade or business. The term "nonbusiness income" does not include income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations, or any amounts which could be included in apportionable income without violating the due process clause of the United States Constitution. For purposes of this definition, "income" means gross receipts less all expenses directly or indirectly attributable thereto. Functionally related dividends are presumed to be business income.

(s) "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on, including a limited partnership; and the term "partner" includes a member having a capital or a profits interest in a partnership.

(t) *"Project" means any activity undertaken by an eligible sponsor, as defined in s. 220.183(2)(c), which is designed to construct, improve, or substantially rehabilitate housing that is affordable to low–income or very–low–income households as defined in s. 420.9071(19) and (28); designed to provide commercial, industrial, or public resources and facilities; or designed to improve entrepreneurial and job–development opportunities for low–income persons. The term also includes the provision of educational programs and materials by an eligible sponsor. A project may be the investment necessary to increase access to high–speed broadband capability in rural communities with enterprise zones, including projects that result in improvements to communications assets that are owned by a business. This paragraph does not preclude projects that propose to construct or rehabilitate low-income or very–low–income housing on scattered sites. The Office of Tourism, Trade, and Economic Development may reserve up to 50 percent of the available annual tax credits under s. 220.181 for housing for very–low–income households pursuant to s. 420.9071(28) for the first 6 months of the fiscal year. With respect to housing, contributions may be used to pay the following eligible project–related activities:*

1. Project development, impact, and management fees for low–income or very–low–income housing projects;

2. Down payment and closing costs for eligible persons, as defined in s. 420.9071(19) and (28);

3. Administrative costs, including housing counseling and marketing fees, not to exceed 10 percent of the community contribution, directly related to low–income or very–low–income projects; and

4. Removal of liens recorded against residential property by municipal, county, or special-district local governments when satisfaction of the lien is a necessary precedent to the transfer of the property to an eligible person, as defined in s. 420.9071(19) and (28), for the purpose of promoting home ownership. Contributions for lien removal must be received from a nonrelated third party. ~~"Project" means any activity undertaken by an eligible sponsor, as defined in s. 220.183(2)(c), which is designed to construct, improve, or substantially rehabilitate housing or commercial, industrial, or public resources and facilities or to improve entrepreneurial and job development opportunities for low-income persons.~~

The provisions of this paragraph shall expire and be void on June 30, 2005.

(u) "Rebuilding of an existing business" means replacement or restoration of real or tangible property destroyed or damaged in an emergency, as defined in paragraph (i), after July 1, 1995, in an enterprise zone, by a business entity authorized to do business in this state as defined in paragraph (e), or a bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the provisions of this chapter, located in the enterprise zone. The provisions of this paragraph shall expire and be void on June 30, 2005.

(v) "Regulations" includes rules promulgated, and forms prescribed, by the department.

(w) "Returns" includes declarations of estimated tax required under this code.

(x) "Secretary" means the secretary of the Department of Commerce. The provisions of this paragraph shall expire and be void on June 30, 2005.

(y) "State," when applied to a jurisdiction other than Florida, means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country, or any political subdivision of any of the foregoing.

(z) "Taxable year" means the calendar or fiscal year upon the basis of which net income is computed under this code, including, in the case of a return made for a fractional part of a year, the period for which such return is made.

(aa) "Taxpayer" means any corporation subject to the tax imposed by this code, and includes all corporations for which a consolidated return is filed under s. 220.131. However, "taxpayer" does not include a corporation having no individuals (including individuals employed by an affiliate) receiving compensation in this state as defined in s. 220.15 when the only property owned or leased by said corporation (including an affiliate) in this state is located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, property which becomes a part of the final printed product, or property from which the printed product is produced.

(bb) "Functionally related dividends" include the following types of dividends:

1. Those received from a subsidiary of which the voting stock is more than 50 percent owned or controlled by the taxpayer or members of its affiliated group and which is engaged in the same general line of business.

2. Those received from any corporation which is either a significant source of supply for the taxpayer or its affiliated group or a significant purchaser of the output of the taxpayer or its affiliated group, or which sells a significant part of its output or obtains a significant part of its raw materials or input from the taxpayer or its affiliated group. "Significant" means an amount of 15 percent or more.

3. Those resulting from the investment of working capital or some other purpose in furtherance of the taxpayer or its affiliated group.

However, dividends not otherwise subject to tax under this chapter are excluded.

(cc) "Child care facility startup costs" means expenditures for substantial renovation, equipment, including playground equipment and kitchen appliances and cooking equipment, real property, including land and improvements, and for reduction of debt, made in connection with a child care facility as defined by s. 402.302, or any facility providing daily care to children who are mildly ill, which is located in this state on the taxpayer's premises and used by the employees of the taxpayer.

(dd) "Operation of a child care facility" means operation of a child care facility as defined by s. 402.302, or any facility providing daily care to children who are mildly ill, which is located in this state within 5 miles of at least one place of business of the taxpayer and which is used by the employees of the taxpayer.

(ee) "Citrus processing company" means a corporation which, during the 60-month period ending on December 31, 1997, had derived more than 50 percent of its total gross receipts from the processing of citrus products and the manufacture of juices.

(ff) "New job has been created" means that the total number of full-time jobs has increased in an enterprise zone from the average of the previous 12 months, as demonstrated to the department by a business located in the enterprise zone.

(gg) "Jobs" means full-time positions, as consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation resulting directly from business operations in this state. This number may not include temporary construction jobs involved with the construction of facilities or any jobs that have previously been included in any application for tax credits under s. 220.181(1).

Section 5. Effective January 1, 2002, subsections (1) and (2) of section 220.181, Florida Statutes, are amended to read:

220.181 Enterprise zone jobs credit.—

(1)(a) Beginning *January* ~~July~~ 1, *2002* ~~1995~~, there shall be allowed a credit against the tax imposed by this chapter to any business located in an enterprise zone which *demonstrates to the department that the total number of full-time jobs defined under s. 212.096(1)(d) has increased from the average of the previous 12 months. This credit is also available for a business that added a minimum of five new full-time jobs in an enterprise zone between July 1, 2000, and December 31, 2001* ~~employs one or more new employees~~. The credit shall be computed as *20* ~~follows:~~

~~1. Ten~~ percent of the actual monthly wages paid in this state to each new employee *hired when a new job has been created, as defined under s. 220.03(1)(ff), unless the business is located in a rural enterprise zone, pursuant to s. 290.004(8), in which case the credit shall be 30 percent of the actual monthly wages paid* ~~whose wages do not exceed $1,500 a month~~. If no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the credit shall be computed as *30* ~~15~~ percent of the actual monthly wages paid in this state to each new employee *hired when a new job has been created, unless the business is located in a rural enterprise zone, in which case the credit shall be 45 percent of the actual monthly wages paid*, for a period of up to *24* ~~12~~ consecutive months.~~;~~

~~2. Five percent of the first $1,500 of actual monthly wages paid in this state for each new employee whose wages exceed $1,500 a month; or~~

~~3. Fifteen percent of the first $1,500 of actual monthly wages paid in this state for each new employee who is a welfare transition program participant.~~

(b) This credit applies only with respect to wages subject to unemployment tax and does not apply for any new employee who is employed for any period less than 3 full months.

(c) If this credit is not fully used in any one year, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

(2) When filing for an enterprise zone jobs credit, a business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, a statement which includes:

(a) For each new employee for whom this credit is claimed, the employee's name and place of residence during the taxable year, including the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the new employee resides if the new employee is a person residing in an enterprise zone, and, if applicable, documentation that the employee is a ~~qualified Job Training Partnership Act classroom training participant or a~~ welfare transition program participant.

(b) If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

(c) The name and address of the business.

(d) The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the eligible business is located.

(e) The salary or hourly wages paid to each new employee claimed.

(f) Demonstration to the department that the total number of full-time jobs has increased from the average of the previous 12 months.

(g)~~(f)~~ Whether the business is a small business as defined by s. 288.703(1).

Section 6. Subsections (1), (2), (3), and (4) of section 220.183, Florida Statutes, are amended to read:

220.183 Community contribution tax credit.—

(1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM SPENDING.—

(a) There shall be allowed a credit of 50 percent of a community contribution against any tax due for a taxable year under this chapter.

(b) No business firm shall receive more than $200,000 in annual tax credits for all approved community contributions made in any one year.

(c) The total amount of tax credit which may be granted for all programs approved under this section*, s. 212.08(5)(q),* and s. 624.5105 is *$20* ~~$10~~ million annually.

(d) All proposals for the granting of the tax credit shall require the prior approval of the Office of Tourism, Trade, and Economic Development.

(e) If the credit granted pursuant to this section is not fully used in any one year because of insufficient tax liability on the part of the business firm, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

(f) A taxpayer who files a Florida consolidated return as a member of an affiliated group pursuant to s. 220.131(1) may be allowed the credit on a consolidated return basis.

(g) A taxpayer who is eligible to receive the credit provided for in s. 624.5105 is not eligible to receive the credit provided by this section.

(2) ELIGIBILITY REQUIREMENTS.—

(a) All community contributions by a business firm shall be in the form specified in s. 220.03(1)(d).

(b) All community contributions must be reserved exclusively for use in projects as defined in s. 220.03(1)(t). *The Office of Tourism, Trade, and Economic Development may reserve up to 50 percent of the available annual tax credits for housing for very-low-income households pursuant to s. 420.9071(28), for the first 6 months of the fiscal year.*

(c) The project must be undertaken by an "eligible sponsor," defined here as:

1. A community action program;

2. A *nonprofit community-based* ~~community~~ development *organization whose mission is the provision of housing for low-income or very-low-income households or increasing entrepreneurial and job-development opportunities for low-income persons* ~~corporation~~;

3. A neighborhood housing services corporation;

4. A local housing authority, created pursuant to chapter 421;

5. A community redevelopment agency, created pursuant to s. 163.356;

6. The Florida Industrial Development Corporation;

7. An historic preservation district agency or organization;

8. A *regional workforce board* ~~private industry council~~;

9. A direct-support organization as provided in s. 240.551;

10. An enterprise zone development agency created pursuant to *s. 290.0056* ~~s. 290.0057~~; ~~or~~

11. A community–based organization incorporated under chapter 617 which is recognized as educational, charitable, or scientific pursuant to s. 501(c)(3) of the Internal Revenue Code and whose by–laws and articles of incorporation include affordable housing, economic development, or community development as the primary mission of the corporation;

12. Units of local government;

13. Units of state government; or

14.~~11.~~ Such other agency as the Office of Tourism, Trade, and Economic Development may, from time to time, designate by rule.

In no event shall a contributing business firm have a financial interest in the eligible sponsor.

(d) The project shall be located in an area designated as an enterprise zone *or a Front Porch Florida Community pursuant to s. 14.2015(9)(b)* ~~pursuant to s. 290.0065~~. Any project designed to construct or rehabilitate *housing for low-income or very-low-income households as defined in s. 420.9071(19) and (28)* ~~low-income housing~~ is exempt from the area requirement of this paragraph. *This section does not preclude projects that propose to construct or rehabilitate housing for low–income or very–low–income households on scattered sites. Any project designed to provide increased access to high–speed broadband capabilities which includes coverage of a rural enterprise zone may locate the project's infrastructure in any area of a rural county.*

(3) APPLICATION REQUIREMENTS.—

(a) Any eligible sponsor wishing to participate in this program must submit a proposal to the Office of Tourism, Trade, and Economic Development which sets forth the sponsor, the project, the area in which the project is located, and such supporting information as may be prescribed by rule. The proposal shall also contain a resolution from the local governmental unit in which it is located certifying that the project is consistent with local plans and regulations.

(b) Any business wishing to participate in this program must submit an application for tax credit to the Office of Tourism, Trade, and Economic Development, which application sets forth the sponsor; the project; and the type, value, and purpose of the contribution. The sponsor shall verify the terms of the application and indicate its *receipt of* ~~willingness to receive~~ the contribution, ~~which verification indicate its willingness to receive the contribution,~~ which verification *must* ~~shall~~ be in writing and ~~shall~~ accompany the application for tax credit.

(c) The business firm must submit a separate application for tax credit for each individual contribution *that* ~~which~~ it *makes* ~~proposes to contribute~~ to each individual project.

(4) ADMINISTRATION.—

(a) The Office of Tourism, Trade, and Economic Development has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section, including rules for the approval or disapproval of proposals by business firms.

(b) The decision of the Office of Tourism, Trade, and Economic Development shall be in writing, and, if approved, the *notification must* ~~proposal shall~~ state the maximum credit allowable to the business firm. A copy of the decision shall be transmitted to the executive director of the Department of Revenue, who shall apply such credit to the tax liability of the business firm.

(c) The Office of Tourism, Trade, and Economic Development shall periodically monitor all projects in a manner consistent with available resources to ensure that resources are utilized in accordance with this section; however, each project shall be reviewed no less often than once every 2 years.

(d) The Department of Revenue has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

(e) The Office of Tourism, Trade, and Economic Development shall, in consultation with the Department of Community Affairs, the Florida Housing Finance Corporation, and the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community–based organizations.

Section 7. Section 288.018, Florida Statutes, is amended to read:

288.018 Regional Rural Development Grants Program.—

(1) The Office of Tourism, Trade, and Economic Development shall establish a matching grant program to provide funding to regionally based economic development organizations representing rural counties and communities for the purpose of building the professional capacity of their organizations. The Office of Tourism, Trade, and Economic Development is authorized to approve, on an annual basis, grants to such regionally based economic development organizations. The maximum amount an organization may receive in any year will be $35,000, or $100,000 in a rural area of critical economic concern recommended by the Rural Economic Development Initiative and designated by the Governor, and must be matched each year by an equivalent amount of nonstate resources.

(2) In approving the participants, the Office of Tourism, Trade, and Economic Development shall consider the demonstrated need of the applicant for assistance and require the following:

(a) Documentation of official commitments of support from each of the units of local government represented by the regional organization.

(b) Demonstration that each unit of local government has made a financial or in-kind commitment to the regional organization.

(c) Demonstration that the private sector has made financial or in-kind commitments to the regional organization.

(d) Demonstration that the organization is in existence and actively involved in economic development activities serving the region.

(e) Demonstration of the manner in which the organization is or will coordinate its efforts with those of other local and state organizations.

(3) The Office of Tourism, Trade, and Economic Development may also contract for the development of an enterprise zone web portal or web

sites for each enterprise zone which will be used to market the program for job creation in disadvantaged urban and rural enterprise zones. Each enterprise zone web page should include downloadable links to state forms and information, as well as local message boards that help businesses and residents receive information concerning zone boundaries, job openings, zone programs, and neighborhood improvement activities.

(4)~~(3)~~ The Office of Tourism, Trade, and Economic Development may expend up to *$750,000* ~~$600,000~~ each fiscal year from funds appropriated to the Rural Community Development Revolving Loan Fund for the purposes outlined in this section. *The Office of Tourism, Trade, and Economic Development may contract with Enterprise Florida, Inc., for the administration of the purposes specified in this section. Funds released to Enterprise Florida, Inc., for this purpose shall be released quarterly and shall be calculated based on the applications in process.*

Section 8. Section 288.019, Florida Statutes, is created to read:

288.019 Rural considerations in grant review and evaluation processes.—Notwithstanding any other law, and to the fullest extent possible, the member agencies and organizations of the Rural Economic Development Initiative (REDI) as defined in s. 288.0656(6)(a) shall review all grant and loan application evaluation criteria to ensure the fullest access for rural counties as defined in s. 288.0656(2)(b) to resources available throughout the state.

(1) Each REDI agency and organization shall review all evaluation and scoring procedures and develop modifications to those procedures which minimize the impact of a project within a rural area.

(2) Evaluation criteria and scoring procedures must provide for an appropriate ranking based on the proportionate impact that projects have on a rural area when compared with similar project impacts on an urban area.

(3) Evaluation criteria and scoring procedures must recognize the disparity of available fiscal resources for an equal level of financial support from an urban county and a rural county.

(a) The evaluation criteria should weight contribution in proportion to the amount of funding available at the local level.

(b) In–kind match should be allowed and applied as financial match when a county is experiencing financial distress through elevated unemployment at a rate in excess of the state's average by 5 percentage points or because of the loss of its ad valorem base.

(4) For existing programs, the modified evaluation criteria and scoring procedure must be delivered to the Office of Tourism, Trade, and Economic Development for distribution to the REDI agencies and organizations. The REDI agencies and organizations shall review and make comments. Future rules, programs, evaluation criteria, and scoring processes must be brought before a REDI meeting for review, discussion, and recommendation to allow rural counties fuller access to the state's resources.

Section 9. Subsection (2) of section 288.065, Florida Statutes, is amended to read:

288.065 Rural Community Development Revolving Loan Fund.—

(2) The program shall provide for long-term loans, loan guarantees, and loan loss reserves to units of local governments*, or economic development organizations substantially underwritten by a unit of local government,* within counties with populations of 75,000 or less, or any county that has a population of 100,000 or less and is contiguous to a county with a population of 75,000 or less, as determined by the most recent official estimate pursuant to s. 186.901, residing in incorporated and unincorporated areas of the county*, or to units of local government, or economic development organizations substantially underwritten by a unit of local government, within a rural area of critical economic concern*. Requests for loans shall be made by application to the Office of Tourism, Trade, and Economic Development. Loans shall be made pursuant to agreements specifying the terms and conditions agreed to between the *applicant* ~~local government~~ and the Office of Tourism, Trade, and Economic Development. The loans shall be the legal obligations of the *applicant* ~~local government~~. All repayments of principal and interest shall be returned to the loan fund and made available for loans to other applicants. However, in a rural area of critical economic concern designated by the Governor, and upon approval by the Office of Tourism, Trade, and Economic Development, repayments of principal and interest may be retained by *the applicant* ~~a unit of local government~~ if such repayments are dedicated and matched to fund regionally based economic development organizations representing the rural area of critical economic concern.

Section 10. Subsection (6) of section 288.0656, Florida Statutes, is amended to read:

288.0656 Rural Economic Development Initiative.—

(6)(a) *By* ~~No later than~~ August 1 *of each year*~~, 1999~~, the head of each of the following agencies and organizations shall designate a high-level staff person from within the agency or organization to serve as the REDI representative for the agency or organization:

1. The Department of Community Affairs.
2. The Department of Transportation.
3. The Department of Environmental Protection.
4. The Department of Agriculture and Consumer Services.
5. The Department of State.
6. The Department of Health.
7. The Department of Children and Family Services.
8. The Department of Corrections.
9. The *Agency for Workforce Innovation* ~~Department of Labor and Employment Security~~.
10. The Department of Education.
11. *The Department of Juvenile Justice.*
12.~~11.~~ The Fish and Wildlife Conservation Commission.
13.~~12.~~ Each water management district.
14.~~13.~~ Enterprise Florida, Inc.
15. *Workforce Florida, Inc.*
16.~~14.~~ The Florida Commission on Tourism or VISIT Florida.
17.~~15.~~ The Florida Regional Planning Council Association.
18.~~16.~~ The Florida State Rural Development Council.
19.~~17.~~ The Institute of Food and Agricultural Sciences (IFAS).

An alternate for each designee shall also be chosen, and the names of the designees and alternates shall be sent to the director of the Office of Tourism, Trade, and Economic Development.

(b) Each REDI representative must have comprehensive knowledge of his or her agency's functions, both regulatory and service in nature, and of the state's economic goals, policies, and programs. This person shall be the primary point of contact for his or her agency with REDI on issues and projects relating to economically distressed rural communities and with regard to expediting project review, shall ensure a prompt effective response to problems arising with regard to rural issues, and shall work closely with the other REDI representatives in the identification of opportunities for preferential awards of program funds and allowances and waiver of program requirements when necessary to encourage and facilitate long-term private capital investment and job creation.

(c) The REDI representatives shall work with REDI in the review and evaluation of statutes and rules for adverse impact on rural

communities and the development of alternative proposals to mitigate that impact.

(d) Each REDI representative shall be responsible for ensuring that each district office or facility of his or her agency is informed about the Rural Economic Development Initiative and for providing assistance throughout the agency in the implementation of REDI activities.

Section 11. Section 288.1088, Florida Statutes, is amended to read:

288.1088 Quick Action Closing Fund.—

(1)(a) The Legislature finds that attracting, retaining, and providing favorable conditions for the growth of certain high-impact business facilities*, privately developed critical rural infrastructure, or key facilities in economically distressed urban or rural communities which provide* ~~provides~~ widespread economic benefits to the public through high-quality employment opportunities in such facilities *or* ~~and~~ in related facilities attracted to the state, through the increased tax base provided by the high-impact facility and *related* businesses ~~in related sectors~~, through an enhanced entrepreneurial climate in the state and the resulting business and employment opportunities, and through the stimulation and enhancement of the state's universities and community colleges. In the global economy, there exists serious and fierce international competition for these facilities, and in most instances, when all available resources for economic development have been used, the state continues to encounter severe competitive disadvantages in vying for these ~~high-impact~~ business facilities. *Florida's rural areas must provide a competitive environment for business in the information age. This often requires an incentive to make it feasible for private investors to provide infrastructure in those areas.*

(b) The Legislature therefore declares that sufficient resources shall be available to respond to extraordinary economic opportunities and to compete effectively for these high-impact business facilities*, critical private infrastructure in rural areas, and key businesses in economically distressed urban or rural communities*.

(2) There is created within the Office of Tourism, Trade, and Economic Development the Quick Action Closing Fund.

(3)(a) Enterprise Florida, Inc., shall evaluate individual proposals for high-impact business facilities and forward recommendations regarding the use of moneys in the fund for such facilities to the director of the Office of Tourism, Trade, and Economic Development. Such evaluation and recommendation must include, but need not be limited to:

1. A description of the type of facility *or infrastructure*, its *operations* ~~business operation~~, and the *associated* product or service associated with the facility.

2. The number of full-time-equivalent jobs that will be created by the facility and the total estimated average annual wages of those jobs *or, in the case of privately developed rural infrastructure, the types of business activities and jobs stimulated by the investment*.

3. The cumulative amount of investment to be dedicated to the facility within a specified period.

4. A statement of any special impacts the facility is expected to stimulate in a particular business sector in the state or regional economy or in the state's universities and community colleges.

5. A statement of the role the incentive is expected to play in the decision of the applicant business to locate or expand in this state *or for the private investor to provide critical rural infrastructure*.

(b) Upon receipt of the evaluation and recommendation from Enterprise Florida, Inc., the director shall recommend approval or disapproval of a project for receipt of funds from the Quick Action Closing Fund to the Governor. In recommending a *project* ~~high-impact business facility~~, the director shall include proposed performance conditions that the *project* ~~facility~~ must meet to obtain incentive funds. The Governor shall consult with the President of the Senate and the Speaker of the House of Representatives before giving final approval for a project. The Executive Office of the Governor shall recommend approval of a project and release of funds pursuant to the legislative consultation and review requirements set forth in s. 216.177. The recommendation must include proposed performance conditions the project must meet to obtain funds.

(c) Upon the approval of the Governor, the director of the Office of Tourism, Trade, and Economic Development and the ~~high-impact~~ business shall enter into a contract that sets forth the conditions for payment of moneys from the fund. The contract must include the total amount of funds awarded; the performance conditions that must be met to obtain the award, including, but not limited to, net new employment in the state, average salary, and total capital investment; *demonstrate a baseline of current service and a measure of enhanced capability;* the methodology for validating performance; the schedule of payments from the fund; and sanctions for failure to meet performance conditions.

(d) Enterprise Florida, Inc., shall validate contractor performance. Such validation shall be reported within 6 months after completion of the contract to the Governor, President of the Senate, and the Speaker of the House of Representatives.

Section 12. Subsection (2) of section 288.9015, Florida Statutes, is amended to read:

288.9015 Enterprise Florida, Inc.; purpose; duties.—

(2) It shall be the responsibility of Enterprise Florida, Inc., to aggressively market Florida's rural communities*,* ~~and~~ distressed urban communities*, and enterprise zones* as locations for potential new investment, to aggressively assist in the retention and expansion of existing businesses in these communities, and to aggressively assist these communities in the identification and development of new economic development opportunities for job creation*, fully using state incentive programs such as the Qualified Target Industry Tax Refund Program under s. 288.106 and the Quick Action Closing Fund under s. 288.1088 in economically distressed areas*.

Section 13. Section 290.004, Florida Statutes, is amended to read:

290.004 Definitions relating to Florida Enterprise Zone Act.—As used in ss. 290.001-290.016:

(1) "Community investment corporation" means a black business investment corporation, a certified development corporation, a small business investment corporation, or other similar entity incorporated under Florida law that has limited its investment policy to making investments solely in minority business enterprises.

(2) "Department" means the Department of Commerce.

(3) "Director" means the director of the Office of Tourism, Trade, and Economic Development.

(4) "Governing body" means the council or other legislative body charged with governing the county or municipality.

(5) "Interagency coordinating council" means the Enterprise Zone Interagency Coordinating Council created pursuant to s. 290.009.

(6) "Minority business enterprise" has the same meaning as in s. 288.703.

(7) "Office" means the Office of Tourism, Trade, and Economic Development.

(8) "Rural enterprise zone" means an enterprise zone that is nominated by a county having a population of 75,000 or fewer, or a county having a population of 100,000 or fewer which is contiguous to a county having a population of 75,000 or fewer, or by a municipality in such a county, or by such a county and one or more municipalities. An enterprise zone designated in accordance with s. 370.28 or s. 290.0065(5)(b), is considered to be a rural enterprise zone.

(9)~~(8)~~ "Secretary" means the Secretary of Commerce.

(10)~~(9)~~ "Small business" has the same meaning as in s. 288.703.

Section 14. *Enterprise zone designation for Sarasota County or Sarasota County and Sarasota.—Sarasota County, or Sarasota County and the City of Sarasota jointly, may apply to the Office of Tourism, Trade, and Economic Development for designation of one enterprise zone within the county, or within both the county and the municipality, which zone encompasses an area that is south of the north county line, west of Tuttle Avenue, north of 10th Street, and east of U.S. Highway 41. The application must be submitted by December 31, 2001, and must comply with the requirements of section 290.0055, Florida Statutes. Notwithstanding the provisions of section 290.0065, Florida Statutes, limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the Office of Tourism, Trade, and Economic Development may designate one enterprise zone under this section. The Office of Tourism, Trade, and Economic Development shall establish the initial effective date of the enterprise zone designated under this section.*

Section 15. Section 290.00555, Florida Statutes, is amended to read:

290.00555 Satellite enterprise zones.~~—Before December 31, 1999,~~ Any municipality an area of which has previously received designation as an enterprise zone in the population category described in s. 290.0065(3)(a)3. may create a satellite enterprise zone not exceeding 1.5 square miles in area outside of and, notwithstanding anything contained in s. 290.0055(4), or any other law, in addition to the previously designated enterprise zone boundaries. The Office of Tourism, Trade, and Economic Development shall amend the boundaries of the areas previously designated by any such municipality as enterprise zones upon receipt of a resolution adopted by the municipality describing the satellite enterprise zone areas, as long as the additional areas are consistent with the categories, criteria, and limitations imposed by s. 290.0055. However, the requirements imposed by s. 290.0055(4)(d) do not apply to such satellite enterprise zone areas.

Section 16. *Satellite enterprise zones may be created pursuant to section 290.00555, Florida Statutes, effective retroactively to December 31, 1999. Resolutions adopted to create satellite enterprise zones under this section must be submitted to the Office of Tourism, Trade, and Economic Development no later than August 1, 2001. The Office of Tourism, Trade, and Economic Development must amend the boundaries of previously designated enterprise zones to create eligible satellite enterprise zones no later than September 1, 2001. Notwithstanding the time limitations contained in chapter 212, Florida Statutes, a business in a satellite enterprise zone designated under this section which was eligible to receive tax incentives pursuant to section 212.08(5)(g) and (h) and section 212.096, Florida Statutes, during the period beginning December 31, 1999, and ending on the date of the creation of the satellite enterprise zone, must submit an application for the tax incentives by December 1, 2001. All other requirements of the enterprise zone program apply to such a business.*

Section 17. Section 290.0065, Florida Statutes, is amended to read:

290.0065 State designation of enterprise zones.—

(1) Upon application of the governing body of a county or municipality or of a county and one or more municipalities jointly pursuant to s. 290.0055, *Enterprise Florida, Inc., and* the *office* ~~department~~, in consultation with the interagency coordinating council, shall determine which areas nominated by such governing bodies meet the criteria outlined in s. 290.0055 and are the most appropriate for designation as state enterprise zones. The *office* ~~department~~ is authorized to designate up to 5 areas within each of the categories established in subparagraphs (3)(a)1., 2., 3., 4., and 5., except that the *office* ~~department~~ may only designate a total of 20 areas as enterprise zones. The *office* ~~department~~ shall not designate more than three enterprise zones in any one county. All designations, including any provision for redesignations, of state enterprise zones pursuant to this section shall be effective July 1, 1995.

(2) Each application made pursuant to s. 290.0055 shall be ranked competitively within the appropriate category established pursuant to subsection (3) based on the pervasive poverty, unemployment, and general distress of the area; the strategic plan, including local fiscal and regulatory incentives, prepared pursuant to s. 290.0057; and the prospects for new investment and economic development in the area. Pervasive poverty, unemployment, and general distress shall be weighted 35 percent; strategic plan and local fiscal and regulatory incentives shall be weighted 40 percent; and prospects for new investment and economic development in the area shall be weighted 25 percent.

(3)(a) Each area designated as an enterprise zone pursuant to this section shall be placed in one of the following categories based on the 1990 census:

1. Communities consisting of census tracts in areas having a total population of 150,000 persons or more.

2. Communities consisting of census tracts in areas having a total population of 50,000 persons or more but less than 150,000 persons.

3. Communities having a population of 20,000 persons or more but less than 50,000 persons.

4. Communities having a population of 7,500 persons or more but less than 20,000 persons.

5. Communities having a population of less than 7,500 persons.

(b) Any area authorized to be an enterprise zone by both a county and a municipality shall be placed in the appropriate category established under paragraph (a) in which an application by the municipality would have been considered if the municipality had acted alone, if at least 60 percent of the population of the area authorized to be an enterprise zone resides within the municipality. An area authorized to be an enterprise zone by a county and one or more municipalities shall be placed in the category in which an application by the municipality with the highest percentage of residents in such area would have been considered if such municipality had authorized the area to be an enterprise zone. An area authorized to be an enterprise zone by a county as defined by s. 125.011(1) shall be placed in the category in which an application by the municipality in which the area is located would have been considered if the municipality had authorized such area to be an enterprise zone. An area authorized to be an enterprise zone by a county as defined by s. 125.011(1) which area is located in two or more municipalities shall be placed in the category in which an application by the municipality with the highest percentage of residents in such area would have been considered if such municipality had authorized such area to be an enterprise zone.

(4)(a) Notwithstanding s. 290.0055, any area existing as a state enterprise zone as of the effective date of this section and originally approved through a joint application from a county and municipality, or through an application from a county as defined in s. 125.011(1), shall be redesignated as a state enterprise zone upon the creation of an enterprise zone development agency pursuant to s. 290.0056 and the completion of a strategic plan pursuant to s. 290.0057. Any area redesignated pursuant to this subsection, other than an area located in a county defined in s. 125.011(1), may be relocated or modified by the appropriate governmental bodies. Such relocation or modification shall be identified in the strategic plan and shall meet the requirements for designation as established by s. 290.005. Any relocation or modification shall be submitted on or before June 1, 1996.

(b) The *office* ~~department~~ shall place any area designated as a state enterprise zone pursuant to this subsection in the appropriate category established in subsection (3), and include such designations within the limitations on state enterprise zone designations set out in subsection (1).

(c) Any county or municipality having jurisdiction over an area designated as a state enterprise zone pursuant to this subsection, other than a county defined by s. 125.011(1), may not apply for designation of another area.

(5) Notwithstanding s. 290.0055, an area designated as a federal empowerment zone or enterprise community pursuant to Title XIII of the Omnibus Budget Reconciliation Act of 1993, the Taxpayer Relief Act

of 1997, or the 1999 Agricultural Appropriations Act shall be designated a state enterprise zone as follows:

(a) An area designated as an urban empowerment zone or urban enterprise community pursuant to Title XIII of the Omnibus Budget Reconciliation Act of 1993 or the Taxpayer Relief Act of 1997 shall be designated a state enterprise zone by the *office* ~~department~~ upon completion of the requirements set out in paragraph (d), except in the case of a county as defined in s. 125.011(1) which, notwithstanding s. 290.0055, may incorporate and include such designated urban empowerment zone or urban enterprise community areas within the boundaries of its state enterprise zones without any limitation as to size.

(b) An area designated as a rural empowerment zone or rural enterprise community pursuant to Title XIII of the Omnibus Budget Reconciliation Act of 1993 or the 1999 Agricultural Appropriations Act shall be designated a state *rural* enterprise zone by the *office* ~~department~~ upon completion of the requirements set out in paragraph (d) *and may incorporate and include such designated rural empowerment zone or rural enterprise community within the boundaries of its state enterprise zones without any limitation as to size*.

(c) Any county or municipality having jurisdiction over an area designated as a state enterprise zone pursuant to this subsection, other than a county defined in s. 125.011(1), may not apply for designation of another area.

(d) Prior to designating such areas as state enterprise zones, the *office* ~~department~~ shall ensure that the governing body having jurisdiction over the zone submits the strategic plan required pursuant to 7 C.F.R. part 25 or 24 C.F.R. part 597 to the *office* ~~department~~, and creates an enterprise zone development agency pursuant to s. 290.0056.

(e) The *office* ~~department~~ shall place any area designated as a state enterprise zone pursuant to this subsection in the appropriate category established in subsection (3), and include such designations within the limitations on state enterprise zone designations set out in subsection (1).

(6)(a) The *office* ~~department~~, in consultation with *Enterprise Florida, Inc., and* the interagency coordinating council, *may develop guidelines* ~~shall promulgate any rules~~ necessary for the approval of areas under this section by the *director* ~~secretary~~.

(b) Such *guidelines* ~~rules~~ shall provide for the measurement of pervasive poverty, unemployment, and general distress using the criteria outlined by s. 290.0058.

(c) Such *guidelines* ~~rules~~ shall provide for the evaluation of the strategic plan and local fiscal and regulatory incentives for effectiveness, including how the following key principles will be implemented by the governing body or bodies:

1. Economic opportunity, including job creation within the community and throughout the region, as well as entrepreneurial initiatives, small business expansion, and training for jobs that offer upward mobility.

2. Sustainable community development that advances the creation of livable and vibrant communities through comprehensive approaches that coordinate economic, physical, community, and human development.

3. Community-based partnerships involving the participation of all segments of the community.

4. Strategic vision for change that identifies how the community will be revitalized. This vision should include methods for building on community assets and coordinate a response to community needs in a comprehensive fashion. This vision should provide goals and performance benchmarks for measuring progress and establish a framework for evaluating and adjusting the strategic plan.

5. Local fiscal and regulatory incentives enacted pursuant to s. 290.0057(1)(e). These incentives should induce economic revitalization, including job creation and small business expansion.

(d) Such *guidelines may* ~~rules shall~~ provide methods for evaluating the prospects for new investment and economic development in the area, including a review and evaluation of any previous state enterprise zones located in the area.

(7) Upon approval by the *director* ~~secretary~~ of a resolution authorizing an area to be an enterprise zone pursuant to this section, the *office* ~~department~~ shall assign a unique identifying number to that resolution. The *office* ~~department~~ shall provide the Department of Revenue *and Enterprise Florida, Inc.,* with a copy of each resolution approved, together with its identifying number.

(8)(a) Notwithstanding s. 290.0055, any area existing as a state enterprise zone as of December 30, 1994, which has received at least $1 million in state community development funds and at least $500,000 in federal community development funds, which has less than 300 businesses located within the boundaries of the enterprise zone, and which has been designated by the United States Department of Agriculture as a "Champion Community" shall be redesignated as a state enterprise zone upon the creation of an enterprise zone development agency pursuant to s. 290.0056 and the completion of a strategic plan pursuant to s. 290.0057.

(b) Such designation shall be in addition to the limitations of state enterprise zone designation set out in subsection (1).

~~(9) The Office of Tourism, Trade, and Economic Development may amend the boundaries of any enterprise zone designated by the state pursuant to this section, consistent with the categories, criteria, and limitations imposed in this section upon the establishment of such enterprise zone and only if consistent with the determinations made in s. 290.0058(2).~~

(9)~~(10)~~ Before December 31, 1998, the governing body of a county in which an enterprise zone designated pursuant to paragraph (5)(b) is located may apply to the Office of Tourism, Trade, and Economic Development to amend the boundaries of the enterprise zone for the purpose of replacing areas not suitable for development. The Office of Tourism, Trade, and Economic Development shall approve the application if it does not increase the overall size of the enterprise zone. Except that upon the request of the governing body of a home rule charter county, or any county the government of which has been consolidated with the government of one or more municipalities in accordance with s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the State Constitution as revised in 1968 and subsequently amended, the Office of Tourism, Trade, and Economic Development may amend the boundaries of an area designated as an enterprise zone upon the receipt of a resolution adopted by such governing body describing the amended boundaries, so long as the added area does not increase the overall size of the expanded zone more than its original size or 20 square miles, whichever is larger, and is consistent with the categories, criteria, and limitations imposed by s. 290.0055.

(10)~~(11)~~ Before December 31, 1999, any county as defined in s. 125.011(1) may create a satellite enterprise zone not exceeding 3 square miles in area outside of and, notwithstanding anything contained in s. 290.0055(4) or elsewhere, in addition to the previously designated 20 square miles of enterprise zones. The Office of Tourism, Trade, and Economic Development shall amend the boundaries of the areas previously designated by any such county as enterprise zones upon the receipt of a resolution adopted by such governing body describing the satellite enterprise zone, as long as the additional area is consistent with the categories, criteria, and limitations imposed by s. 290.0055, provided that the 20-square-mile limitation and the requirements imposed by s. 290.0055(4)(d) do not apply to such satellite enterprise zone.

Section 18. Section 290.00676, Florida Statutes, is created to read:

290.00676 Amendment of rural enterprise zone boundaries.—Notwithstanding any other law, upon recommendation by Enterprise Florida, Inc., the Office of Tourism, Trade, and Economic Development may approve requests to amend the boundaries of rural enterprise zones

as defined in s. 290.004(8). Boundary amendments authorized by this section are subject to the following requirements:

(1) The amendment may increase the size of the rural enterprise zone up to a maximum zone size of 20 square miles.

(2) The amendment may increase the zone's number of noncontiguous areas by one, if the additional noncontiguous area has zero population. For purposes of this subsection, the pervasive poverty criteria may be set aside for the addition of a noncontiguous area.

(3) The local enterprise zone development agency must request the amendment from Enterprise Florida, Inc., prior to December 30, 2001. The request must contain maps and sufficient information to allow the office to determine the number of noncontiguous areas and the total size of the rural enterprise zone.

Section 19. Section 290.00677, Florida Statutes, is created to read:

290.00677 Rural enterprise zones; special qualifications.—

(1) Notwithstanding the enterprise zone residency requirements set out in s. 212.096(1)(c), eligible businesses as defined by s. 212.096(1)(a), located in rural enterprise zones as defined by s. 290.004, may receive the basic minimum credit provided under s. 212.096 for creating a new job and hiring a person residing within the jurisdiction of a rural county, as defined by s. 288.106(1)(r). All other provisions of s. 212.096, including, but not limited to, those relating to the award of enhanced credits, apply to such businesses.

(2) Notwithstanding the enterprise zone residency requirements set out in s. 220.03(1)(q), eligible businesses as defined by s. 212.096(1)(a), located in rural enterprise zones as defined in s. 290.004, may receive the basic minimum credit provided under s. 220.181 for creating a new job and hiring a person residing within the jurisdiction of a rural county, as defined by s. 288.106(1)(r). All other provisions of s. 220.181, including, but not limited to, those relating to the award of enhanced credits apply to such businesses.

Section 20. Section 290.00694, Florida Statutes, is created to read:

290.00694 Enterprise zone designation for rural communities.—An area designated as a rural champion community under the Taxpayer Relief Act of 1997 or a community within a designated rural area of critical economic concern under s. 288.0656 may submit an application to Enterprise Florida, Inc., for review and recommendation to the office for designation as an enterprise zone. The application must be submitted by December 31, 2001. Notwithstanding the provisions of s. 290.0065 limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the Office of Tourism, Trade, and Economic Development may designate enterprise zones under this section. Upon completion of the requirements set out in s. 290.0065(5)(d), the Office of Tourism, Trade, and Economic Development shall establish the initial effective date of the enterprise zones designated pursuant to this section. Only one community in each county in a rural area of critical economic concern may be designated as an enterprise zone.

Section 21. Subsection (3) of section 290.007, Florida Statutes, is amended to read:

290.007 State incentives available in enterprise zones.—The following incentives are provided by the state to encourage the revitalization of enterprise zones:

(3) The community contribution tax credits provided in ss. *212.08,* 220.183*,* and 624.5105.

Section 22. Subsection (7) is added to section 290.048, Florida Statutes, to read:

290.048 General powers of Department of Community Affairs under ss. 290.0401-290.049.—The department has all the powers necessary or appropriate to carry out the purposes and provisions of the program, including the power to:

(7) Establish advisory committees and solicit participation in designing, administering, and evaluating the program and in linking the program with other housing and community development resources.

Section 23. *Section 290.049, Florida Statutes, is repealed.*

Section 24. *Subsection (4) of section 370.28, Florida Statutes, is repealed.*

Section 25. Subsection (39) is added to section 420.507, Florida Statutes, to read:

420.507 Powers of the corporation.—The corporation shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers which are in addition to all other powers granted by other provisions of this part:

(39) To create recognition programs to honor individuals, community–based development organizations, units of local government, or others who have demonstrated the ideals of community stewardship and increased access to housing for low–income households, including economically distressed areas. Such programs may incorporate certificates of recognition by the Governor and may include presentation by the Governor or his representative.

Section 26. Subsections (1), (2), (4), and (5) of section 624.5105, Florida Statutes, are amended to read:

624.5105 Community contribution tax credit; authorization; limitations; eligibility and application requirements; administration; definitions; expiration.—

(1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.—

(a) There shall be allowed a credit of 50 percent of a community contribution against any tax due for a calendar year under s. 624.509 or s. 624.510.

(b) No insurer shall receive more than $200,000 in annual tax credits for all approved community contributions made in any one year.

(c) The total amount of tax credit which may be granted for all programs approved under this section*, s. 212.08(5)(q),* and s. 220.183 is *$20* ~~$10~~ million annually.

(d) Each proposal for the granting of such tax credit requires the prior approval of the director.

(e) If the credit granted pursuant to this section is not fully used in any one year because of insufficient tax liability on the part of the insurer, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by s. 624.509 or s. 624.510 for such year exceeds the credit under this section for such year.

(2) ELIGIBILITY REQUIREMENTS.—

(a) Each community contribution by an insurer must be in a form specified in subsection (5).

(b) Each community contribution must be reserved exclusively for use in a project *as defined in s. 220.03(1)(t).*

(c) The project must be undertaken by an "eligible sponsor," *as* ~~which term is~~ defined *in s. 220.183(2)(c).* ~~as:~~

~~1. A community action program;~~

~~2. A community development corporation;~~

~~3. A neighborhood housing services corporation;~~

~~4. A local housing authority created pursuant to chapter 421;~~

~~5. A community redevelopment agency created pursuant to s. 163.356;~~

~~6. The Florida Industrial Development Corporation;~~

~~7. A historic preservation district agency or organization;~~

~~8. A private industry council;~~

~~9. An enterprise zone development agency created pursuant to s. 290.0057; or~~

~~10. Such other agency as the director may, from time to time, designate by rule.~~

In no event shall a contributing insurer have a financial interest in the eligible sponsor.

(d) The project shall be located in an area designated as an enterprise zone *or a Front Porch Community* pursuant to *s. 14.2015(9)(b)* ~~s. 290.0065~~. Any project designed to construct or rehabilitate *housing for low–income or very–low–income households as defined in s. 420.9071(19) and (28)* ~~low-income housing~~ is exempt from the area requirement of this paragraph.

(4) ADMINISTRATION.—

(a)1. The Office of Tourism, Trade, and Economic Development is authorized to adopt all rules necessary to administer this section, including rules for the approval or disapproval of proposals by insurers.

2. The decision of the director shall be in writing, and, if approved, the proposal shall state the maximum credit allowable to the insurer. A copy of the decision shall be transmitted to the executive director of the Department of Revenue, who shall apply such credit to the tax liability of the insurer.

3. The office shall monitor all projects periodically, in a manner consistent with available resources to ensure that resources are utilized in accordance with this section; however, each project shall be reviewed no less frequently than once every 2 years.

4. The Office of Tourism, Trade, and Economic Development shall, in consultation with the Department of Community Affairs, the Florida Housing Finance Corporation, and the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community–based organizations.

(b) The Department of Revenue shall adopt any rules necessary to ensure the orderly implementation and administration of this section.

(5) DEFINITIONS.—For the purpose of this section:

(a) "Community contribution" means the grant by an insurer of any of the following items:

1. Cash or other liquid assets.

2. Real property.

3. Goods or inventory.

4. Other physical resources which are identified by the department.

(b) "Director" means the director of the Office of Tourism, Trade, and Economic Development.

(c) "Local government" means any county or incorporated municipality in the state.

(d) "Office" means the Office of Tourism, Trade, and Economic Development.

(e) "Project" means *an activity as defined in s. 220.03(1)(t) or the provision of educational programs and materials by an eligible sponsor.* ~~any activity undertaken by an eligible sponsor, as defined in subsection (2), which is designed to construct, improve, or substantially rehabilitate housing or commercial, industrial, or public resources and facilities or to improve entrepreneurial and job-development opportunities for low-income persons.~~

Section 27. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 1 through page 3, line 29
remove from the title of the bill: all of said lines

and insert in lieu thereof: A bill to be entitled An act relating to economic development; amending s. 212.08, F.S.; revising certain procedures and conditions relating to the sales tax exemption for enterprise-zone building materials and business property; extending the community contribution tax credit provisions of the enterprise zone program to the state sales tax; amending s. 212.096, F.S.; redefining the terms "eligible business" and "new employee"; defining the terms "jobs" and "new job has been created"; revising the computation procedures of the enterprise-zone jobs credit against sales tax; amending s. 212.098, F.S.; redefining the term "eligible business"; defining the term "qualified area"; deleting provisions ranking qualified counties; limiting the amount of tax credits available during any one calendar year; providing for reduction or waiver of certain financial match requirements in rural areas by Rural Economic Development Initiative agencies and organizations; amending s. 220.03, F.S.; redefining the terms "new employee" and "project"; defining the terms "new job has been created" and "jobs"; amending s. 220.181, F.S.; revising the computation procedures of the enterprise-zone job credit against the corporate income tax; amending s. 220.183, F.S.; revising the eligibility, application, and administrative requirements of the community contribution corporate income tax credit program; increasing the limitation on annual credits; amending s. 288.018, F.S.; revising administration and uses of the Regional Rural Development Grants Program; creating s. 288.019, F.S.; providing for a review and evaluation process of rural grants by Rural Economic Development Initiative agencies; amending s. 288.065, F.S.; expanding the scope of the Rural Community Revolving Loan Fund Program; amending s. 288.0656, F.S.; revising the membership of the Rural Economic Development Initiative; requiring an annual designation of staff representatives; amending s. 288.1088, F.S.; expanding eligible uses of the Quick Action Closing Fund; amending s. 288.9015, F.S.; revising the duties of Enterprise Florida, Inc.; amending s. 290.004, F.S.; defining the term "rural enterprise zone"; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in Sarasota County; providing requirements with respect thereto; amending s. 290.00555, F.S.; removing the December 31, 1999, deadline for creation of satellite enterprise zones by certain municipalities and authorizing creation of such zones effective retroactively to that date; providing duties of the Office of Tourism, Trade, and Economic Development; providing an application deadline for businesses in such zones eligible for certain sales and use tax incentives; amending s. 290.0065, F.S.; providing for certain rural enterprise zones; conforming agency references to changes in program administration; authorizing the Office of Tourism, Trade, and Economic Development in consultation with Enterprise Florida, Inc., to develop guidelines relating to the designation of enterprise zones; creating s. 290.00676, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to amend the boundaries of a rural enterprise zone and providing requirements with respect thereto; creating s. 290.00677, F.S.; modifying the employee residency requirements for the enterprise-zone job credit against the sales tax and corporate income tax if the business is located in a rural enterprise zone; creating s. 290.00694, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate rural champion communities as enterprise zones; providing requirements with respect thereto; amending s. 290.007, F.S.; revising the list of enterprise zone incentives to reflect the creation of a community contribution sales tax credit program; amending s. 290.048, F.S.; authorizing the Department of Community Affairs to establish advisory committees and solicit participation with respect to administering the Florida Small Cities Community Development Block Grant Program; repealing s. 290.049, F.S., relating to the Community Development Block Grant Advisory Council; repealing s. 370.28(4), F.S., which provides conditions for tax incentives in enterprise zone net–ban communities; amending s. 420.507, F.S.; authorizing the Florida Housing Finance Corporation to create a recognition program to support affordable housing; amending s. 624.5105, F.S.; increasing the annual limitation on community contribution tax credits; conforming

definitions; revising eligibility and administrative requirements; providing effective dates.

Rep. Pickens moved the adoption of the amendment.

The Committee on Economic Development & International Trade offered the following:

(Amendment Bar Code: 955107)

Amendment 1 to Amendment 1—On page 12, line 3 and page 35 line 15 of the amendment after the "."

insert: *A project may include the provision of museum educational programs and materials that are directly related to any project approved between January 1, 1996, and December 31, 1999, and located in an enterprise zone as referenced in s. 290.00675, F.S.*

Rep. Pickens moved the adoption of the amendment to the amendment, which failed of adoption.

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

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 335759)

Amendment 2 (with title amendment)—On page 4, line 4, through

Page 25, line 14
remove from the bill: everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraphs (g) and (h) of subsection (5) of section 212.08, Florida Statutes, are amended, and paragraph (q) is added to that subsection, to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(g) Building materials used in the rehabilitation of real property located in an enterprise zone.—

1. Beginning July 1, 1995, building materials used in the rehabilitation of real property located in an enterprise zone shall be exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the items have been used for the rehabilitation of real property located in an enterprise zone. Except as provided in subparagraph 2., this exemption inures to the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone only through a refund of previously paid taxes. To receive a refund pursuant to this paragraph, the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone must file an application under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, which includes:

a. The name and address of the person claiming the refund.

b. An address and assessment roll parcel number of the rehabilitated real property in an enterprise zone for which a refund of previously paid taxes is being sought.

c. A description of the improvements made to accomplish the rehabilitation of the real property.

d. A copy of the building permit issued for the rehabilitation of the real property.

e. A sworn statement, under the penalty of perjury, from the general contractor licensed in this state with whom the applicant contracted to make the improvements necessary to accomplish the rehabilitation of the real property, which statement lists the building materials used in the rehabilitation of the real property, the actual cost of the building materials, and the amount of sales tax paid in this state on the building materials. In the event that a general contractor has not been used, the applicant shall provide this information in a sworn statement, under the penalty of perjury. Copies of the invoices which evidence the purchase of the building materials used in such rehabilitation and the payment of sales tax on the building materials shall be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of building materials used in the rehabilitation of real property and the payment of sales taxes due thereon is documented by a general contractor or by the applicant in this manner, the cost of such building materials shall be an amount equal to 40 percent of the increase in assessed value for ad valorem tax purposes.

f. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the rehabilitated real property is located.

g. A certification by the local building code inspector that the improvements necessary to accomplish the rehabilitation of the real property are substantially completed.

h. Whether the business is a small business as defined by s. 288.703(1).

i. If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

2. This exemption inures to a city, county, ~~or~~ other governmental agency*, or nonprofit community-based organization* through a refund of previously paid taxes if the building materials used in the rehabilitation of real property located in an enterprise zone are paid for from the funds of a community development block grant*, State Housing Initiatives Partnership Program,* or similar grant or loan program. To receive a refund pursuant to this paragraph, a city, county, ~~or~~ other governmental agency*, or nonprofit community-based organization* must file an application which includes the same information required to be provided in subparagraph 1. by an owner, lessee, or lessor of rehabilitated real property. In addition, the application must include a sworn statement signed by the chief executive officer of the city, county, ~~or~~ other governmental agency*, or nonprofit community-based organization* seeking a refund which states that the building materials for which a refund is sought were paid for from the funds of a community development block grant*, State Housing Initiatives Partnership Program,* or similar grant or loan program.

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to subparagraph 1. or subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the information required pursuant to subparagraph 1. or subparagraph 2. and meet the criteria set out in this paragraph as eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The applicant shall be responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund pursuant to this paragraph must be submitted to the department within 6 months after the rehabilitation of the property is deemed to be substantially completed by the local building code inspector *or within 90 days after the rehabilitated property is first subject to assessment*.

5. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. No more than one exemption through a refund of previously paid taxes for the rehabilitation of real property shall be permitted for any one parcel of real property. No refund shall

be granted pursuant to this paragraph unless the amount to be refunded exceeds $500. No refund granted pursuant to this paragraph shall exceed the lesser of 97 percent of the Florida sales or use tax paid on the cost of the building materials used in the rehabilitation of the real property as determined pursuant to sub-subparagraph 1.e. or $5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount of refund granted pursuant to this paragraph shall not exceed the lesser of 97 percent of the sales tax paid on the cost of such building materials or $10,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund.

6. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the rehabilitated real property is located and shall transfer that amount to the General Revenue Fund.

8. For the purposes of the exemption provided in this paragraph:

a. "Building materials" means tangible personal property which becomes a component part of improvements to real property.

b. "Real property" has the same meaning as provided in s. 192.001(12).

c. "Rehabilitation of real property" means the reconstruction, renovation, restoration, rehabilitation, construction, or expansion of improvements to real property.

d. "Substantially completed" has the same meaning as provided in s. 192.042(1).

9. The provisions of this paragraph shall expire and be void on December 31, 2005.

(h) Business property used in an enterprise zone.—

1. Beginning July 1, 1995, business property purchased for use by businesses located in an enterprise zone which is subsequently used in an enterprise zone shall be exempt from the tax imposed by this chapter. This exemption inures to the business only through a refund of previously paid taxes. A refund shall be authorized upon an affirmative showing by the taxpayer to the satisfaction of the department that the requirements of this paragraph have been met.

2. To receive a refund, the business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, an application which includes:

a. The name and address of the business claiming the refund.

b. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located.

c. A specific description of the property for which a refund is sought, including its serial number or other permanent identification number.

d. The location of the property.

e. The sales invoice or other proof of purchase of the property, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the property was purchased.

f. Whether the business is a small business as defined by s. 288.703(1).

g. If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that contain the information required pursuant to subparagraph 2. and meet the criteria set out in this paragraph as eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The business shall be responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund pursuant to this paragraph must be submitted to the department within 6 months after the *tax is due on the* business property *that* is purchased.

5. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. The amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or $5,000, or, if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount refunded on purchases of business property under this paragraph shall be the lesser of 97 percent of the sales tax paid on such business property or $10,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund. No refund shall be granted under this paragraph unless the amount to be refunded exceeds $100 in sales tax paid on purchases made within a 60-day time period.

6. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. If the department determines that the business property is used outside an enterprise zone within 3 years from the date of purchase, the amount of taxes refunded to the business purchasing such business property shall immediately be due and payable to the department by the business, together with the appropriate interest and penalty, computed from the date of purchase, in the manner provided by this chapter. Notwithstanding this subparagraph, business property used exclusively in:

a. Licensed commercial fishing vessels,

b. Fishing guide boats, or

c. Ecotourism guide boats

that leave and return to a fixed location within an area designated under s. 370.28 are eligible for the exemption provided under this paragraph if all requirements of this paragraph are met. Such vessels and boats must be owned by a business that is eligible to receive the exemption provided under this paragraph. This exemption does not apply to the purchase of a vessel or boat.

8. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the business property is located and shall transfer that amount to the General Revenue Fund.

9. For the purposes of this exemption, "business property" means new or used property defined as "recovery property" in s. 168(c) of the Internal Revenue Code of 1954, as amended, except:

a. Property classified as 3-year property under s. 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

b. Industrial machinery and equipment as defined in sub-subparagraph (b)6.a. and eligible for exemption under paragraph (b); ~~and~~

c. Building materials as defined in sub-subparagraph (g)8.a.*; and*

d. Business property having a sales price of under $5,000 per unit.

10. The provisions of this paragraph shall expire and be void on December 31, 2005.

(q) Community contribution tax credit for donations.—

1. Authorization.—Beginning July 1, 2001, persons who are registered with the department under s. 212.18 to collect or remit sales or use tax and who make donations to eligible sponsors are eligible for tax credits against their state sales and use tax liabilities as provided in this paragraph:

a. The credit shall be computed as 50 percent of the person's approved annual community contribution;

b. The credit shall be granted as a refund against state sales and use taxes reported on returns and remitted in the 12 months preceding the date of application to the department for the credit as required in sub–subparagraph 3.c. If the annual credit is not fully used through such refund because of insufficient tax payments during the applicable 12–month period, the unused amount may be included in an application for a refund made pursuant to sub–subparagraph 3.c. in subsequent years against the total tax payments made for such year. Carryover credits may be applied for a 3–year period without regard to any time limitation that would otherwise apply under s. 215.26;

c. No person shall receive more than $200,000 in annual tax credits for all approved community contributions made in any one year;

d. All proposals for the granting of the tax credit shall require the prior approval of the Office of Tourism, Trade, and Economic Development;

e. The total amount of tax credits which may be granted for all programs approved under this paragraph, s. 220.183, and s. 624.5105 is $10 million annually; and

f. A person who is eligible to receive the credit provided for in this paragraph, s. 220.183, or s. 624.5105 may receive the credit only under the one section of the person's choice.

2. Eligibility requirements.—

a. A community contribution by a person must be in the following form:

(I) Cash or other liquid assets;

(II) Real property;

(III) Goods or inventory; or

(IV) Other physical resources as identified by the Office of Tourism, Trade, and Economic Development.

b. All community contributions must be reserved exclusively for use in a project. As used in this sub-subparagraph, the term "project" means any activity undertaken by an eligible sponsor which is designed to construct, improve, or substantially rehabilitate housing that is affordable to low-income or very–low–income households as defined in s. 420.9071(19) and (28); designed to provide commercial, industrial, or public resources and facilities; or designed to improve entrepreneurial and job–development opportunities for low–income persons. A project may be the investment necessary to increase access to high-speed broadband capability in rural communities with enterprise zones, including projects that result in improvements to communications assets that are owned by a business. A project may include the provision of museum educational programs and materials that are directly related to any project approved between January 1, 1996, and December 31, 1999, and located in an enterprise zone as referenced in s. 290.00675. This paragraph does not preclude projects that propose to construct or rehabilitate housing for low-income or very–low–income households on scattered sites. The Office of Tourism, Trade, and Economic Development may reserve up to 50 percent of the available annual tax credits for housing for very–low–income households pursuant to s. 420.9071(28) for the first 6 months of the fiscal year. With respect to housing, contributions may be used to pay the following eligible low-income and very–low–income housing-related activities:

(I) Project development impact and management fees for low-income or very–low–income housing projects;

(II) Down payment and closing costs for eligible persons, as defined in s. 420.9071(19) and (28);

(III) Administrative costs, including housing counseling and marketing fees, not to exceed 10 percent of the community contribution, directly related to low-income or very–low–income projects; and

(IV) Removal of liens recorded against residential property by municipal, county, or special-district local governments when satisfaction of the lien is a necessary precedent to the transfer of the property to an eligible person, as defined in s. 420.9071(19) and (28), for the purpose of promoting home ownership. Contributions for lien removal must be received from a nonrelated third party.

c. The project must be undertaken by an "eligible sponsor," which includes:

(I) A community action program;

(II) A nonprofit community–based development organization whose mission is the provision of housing for low–income or very–low–income households or increasing entrepreneurial and job–development opportunities for low–income persons;

(III) A neighborhood housing services corporation;

(IV) A local housing authority created under chapter 421;

(V) A community redevelopment agency created under s. 163.356;

(VI) The Florida Industrial Development Corporation;

(VII) An historic preservation district agency or organization;

(VIII) A regional workforce board;

(IX) A direct–support organization as provided in s. 240.551;

(X) An enterprise zone development agency created under s. 290.0056;

(XI) A community–based organization incorporated under chapter 617 which is recognized as educational, charitable, or scientific pursuant to s. 501(c)(3) of the Internal Revenue Code and whose by–laws and articles of incorporation include affordable housing, economic development, or community development as the primary mission of the corporation;

(XII) Units of local government;

(XIII) Units of state government; or

(XIV) Any other agency that the Office of Tourism, Trade, and Economic Development designates by rule.

In no event may a contributing person have a financial interest in the eligible sponsor.

d. The project must be located in an area designated an enterprise zone or a Front Porch Florida community pursuant to s. 14.2015(9)(b), unless the project increases access to high-speed broadband capability for rural communities with enterprise zones but is physically located outside the designated rural zone boundaries. Any project designed to construct or rehabilitate housing for low–income or very–low–income households as defined in s. 420.0971(19) and (28) is exempt from the area requirement of this sub–subparagraph.

3. Application requirements.—

a. Any eligible sponsor seeking to participate in this program must submit a proposal to the Office of Tourism, Trade, and Economic Development which sets forth the name of the sponsor, a description of the project and the area in which the project is located, together with such supporting information as is prescribed by rule. The proposal must also contain a resolution from the local governmental unit in which the project is located certifying that the project is consistent with local plans and regulations.

b. Any person seeking to participate in this program must submit an application for tax credit to the Office of Tourism, Trade, and Economic Development which sets forth the name of the sponsor, a description of the project, and the type, value, and purpose of the contribution. The sponsor shall verify the terms of the application and indicate its receipt of the contribution, which verification must be in writing and accompany the application for tax credit. The person must submit a separate tax credit application to the office for each individual contribution that it makes to each individual project.

c. Any person who has received notification from the Office of Tourism, Trade, and Economic Development that a tax credit has been approved must apply to the department to receive the refund. Application must be made on the form prescribed for claiming refunds of sales and use taxes and be accompanied by a copy of the notification. A person may submit only one application for refund to the department within any 12–month period.

4. Administration.—

a. The Office of Tourism, Trade, and Economic Development may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to administer this paragraph, including rules for the approval or disapproval of proposals by a person.

b. The decision of the Office of Tourism, Trade, and Economic Development must be in writing, and, if approved, the notification shall state the maximum credit allowable to the person. Upon approval, the office shall transmit a copy of the decision to the Department of Revenue.

c. The Office of Tourism, Trade, and Economic Development shall periodically monitor all projects in a manner consistent with available resources to ensure that resources are used in accordance with this paragraph; however, each project must be reviewed at least once every 2 years.

d. The Office of Tourism, Trade, and Economic Development shall, in consultation with the Department of Community Affairs, the Florida Housing Finance Corporation, and the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community–based organizations.

5. Expiration.—This paragraph expires June 30, 2005; however, any accrued credit carryover that is unused on that date may be used until the expiration of the 3–year carryover period for such credit.

Section 2. Effective January 1, 2002, section 212.096, Florida Statutes, is amended to read:

212.096 Sales, rental, storage, use tax; enterprise zone jobs credit against sales tax.—

(1) For the purposes of the credit provided in this section:

(a) "Eligible business" means any sole proprietorship, firm, partnership, corporation, bank, savings association, estate, trust, business trust, receiver, syndicate, or other group or combination, or successor business, located in an enterprise zone. *The business must demonstrate to the department that the total number of full-time jobs defined under paragraph (d) has increased from the average of the previous 12 months. The term "eligible business" includes a business that added a minimum of five new full-time jobs in an enterprise zone between July 1, 2000, and December 31, 2001.* An eligible business does not include any business which has claimed the credit permitted under s. 220.181 for any new business employee first beginning employment with the business after July 1, 1995.

(b) "Month" means either a calendar month or the time period from any day of any month to the corresponding day of the next succeeding month or, if there is no corresponding day in the next succeeding month, the last day of the succeeding month.

(c) "New employee" means a person residing in an enterprise zone~~, a qualified Job Training Partnership Act classroom training participant,~~ or a *participant in the* welfare transition program ~~participant~~ who begins employment with an eligible business after July 1, 1995, and who has not been previously employed *full-time* within the preceding 12 months by the eligible business, or a successor eligible business, claiming the credit allowed by this section.

(d) "Jobs" means full–time positions, as consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation resulting directly from a business operation in this state. This number may not include temporary construction jobs involved with the construction of facilities or any jobs that have previously been included in any application for tax credits under s. 220.181(1). The term "jobs" also includes employment of an employee leased from an employee leasing company licensed under chapter 468 if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.

(e) "New job has been created" means that the total number of full-time jobs has increased in an enterprise zone from the average of the previous 12 months, as demonstrated to the department by a business located in the enterprise zone.

A person shall be deemed to be employed if the person performs duties in connection with the operations of the business on a regular, full-time basis, provided the person is performing such duties for an average of at least 36 hours per week each month~~, or a part-time basis, provided the person is performing such duties for an average of at least 20 hours per week each month throughout the year~~. The person must be performing such duties at a business site located in the enterprise zone.

(2)(a) It is the legislative intent to encourage the provision of meaningful employment opportunities which will improve the quality of life of those employed and to encourage economic expansion of enterprise zones and the state. Therefore, beginning *January* ~~July~~ 1, *2002* ~~1995~~, upon an affirmative showing by *an eligible* ~~a~~ business to the satisfaction of the department that the requirements of this section have been met, the business shall be allowed a credit against the tax remitted under this chapter.

(b) The credit shall be computed as *20* ~~follows:~~

~~1. Ten~~ percent of the *actual* monthly wages paid in this state to each new employee *hired when a new job has been created, unless the business is located within a rural enterprise zone pursuant to s. 290.004(8), in which case the credit shall be 30 percent of the actual monthly wages paid* ~~whose wages do not exceed $1,500 a month~~. If no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the credit shall be computed as *30* ~~15~~ percent of the *actual* monthly wages paid in this state to each new employee *hired when a new job has been created, unless the business is located within a rural enterprise zone, in which case the credit shall be 45 percent of the actual monthly wages paid. If the new employee hired when a new job is created is a participant in the welfare transition program, the following credit shall be a percent of the actual monthly wages paid: 40 percent for $4 above the hourly federal minimum wage rate; 41 percent for $5 above the hourly federal minimum wage rate; 42 percent for $6 above the hourly federal minimum wage rate; 43 percent for $7 above the hourly federal minimum wage rate; and 44 percent for $8 above the hourly federal minimum wage rate.* ~~;~~

~~2. Five percent of the first $1,500 of actual monthly wages paid in this state for each new employee whose wages exceed $1,500 a month; or~~

~~3. Fifteen percent of the first $1,500 of actual monthly wages paid in this state for each new employee who is a WAGES Program participant pursuant to chapter 414.~~

For purposes of this paragraph, monthly wages shall be computed as one-twelfth of the expected annual wages paid to such employee. The amount paid as wages to a new employee is the compensation paid to such employee that is subject to unemployment tax. The credit shall be allowed for up to *24* ~~12~~ consecutive months, beginning with the first tax return due pursuant to s. 212.11 after approval by the department.

(3) In order to claim this credit, an eligible business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, a statement which includes:

(a) For each new employee for whom this credit is claimed, the employee's name and place of residence, including the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides if the new employee is a person residing in an enterprise zone, and, if applicable, documentation that the employee is a ~~qualified Job Training Partnership Act classroom training participant or a~~ welfare transition program participant.

(b) If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

(c) The name and address of the eligible business.

(d) The starting salary or hourly wages paid to the new employee.

(e) Demonstration to the department that the total number of full–time jobs defined under paragraph (1)(d) has increased in an enterprise zone from the average of the previous 12 months.

(f)~~(e)~~ The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located.

(g)~~(f)~~ Whether the business is a small business as defined by s. 288.703(1).

(h)~~(g)~~ Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to this subsection and meets the criteria set out in this section. The governing body or agency shall certify all applications that contain the information required pursuant to this subsection and meet the criteria set out in this section as eligible to receive a credit. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The business shall be responsible for forwarding a certified application to the department within the time specified in paragraph *(i)* ~~(h)~~.

(i)~~(h)~~ All applications for a credit pursuant to this section must be submitted to the department within *6* 4 months after the new employee is hired.

(4) Within 10 working days after receipt of a completed application for a credit authorized in this section, the department shall inform the business that the application has been approved. The credit may be taken on the first return due after receipt of approval from the department.

(5)~~(4)~~ In the event the application is *incomplete or* insufficient to support the credit authorized in this section, the department shall deny the credit and notify the business of that fact. The business may reapply for this credit.

(6)~~(5)~~ The credit provided in this section does not apply:

(a) For any new employee who is an owner, partner, or stockholder of an eligible business.

(b) For any new employee who is employed for any period less than 3 ~~full~~ calendar months.

(7)~~(6)~~ The credit provided in this section shall not be allowed for any month in which the tax due for such period or the tax return required pursuant to s. 212.11 for such period is delinquent.

(8)~~(7)~~ In the event an eligible business has a credit larger than the amount owed the state on the tax return for the time period in which the credit is claimed, the amount of the credit for that time period shall be the amount owed the state on that tax return.

(9)~~(8)~~ Any business which has claimed this credit shall not be allowed any credit under the provisions of s. 220.181 for any new employee beginning employment after July 1, 1995.

(10)~~(9)~~ It shall be the responsibility of each business to affirmatively demonstrate to the satisfaction of the department that it meets the requirements of this section.

(11)~~(10)~~ Any person who fraudulently claims this credit is liable for repayment of the credit plus a mandatory penalty of 100 percent of the credit plus interest at the rate provided in this chapter, and such person is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(12)~~(11)~~ The provisions of this section, except for subsection *(11)* ~~(10)~~, ~~shall~~ expire ~~and be void on~~ December 31, 2005.

Section 3. Effective January 1, 2002, section 212.098, Florida Statutes, is amended to read:

212.098 Rural Job Tax Credit Program.—

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

(a) "Eligible business" means any sole proprietorship, firm, partnership, or corporation that is located in a qualified county and is predominantly engaged in, or is headquarters for a business predominantly engaged in, activities usually provided for consideration by firms classified within the following standard industrial classifications: SIC 01-SIC 09 (agriculture, forestry, and fishing); SIC 20-SIC 39 (manufacturing); SIC 422 (public warehousing and storage); SIC 70 (hotels and other lodging places); SIC 7391 (research and development); SIC 7992 (public golf courses); ~~and~~ SIC 7996 (amusement parks)*; and a targeted industry eligible for the qualified target industry business tax refund under s. 288.106*. A call center or similar customer service operation that services a multistate market or an international market is also an eligible business. In addition, the Office of Tourism, Trade, and Economic Development may, as part of its final budget request submitted pursuant to s. 216.023, recommend additions to or deletions from the list of standard industrial classifications used to determine an eligible business, and the Legislature may implement such recommendations. Excluded from eligible receipts are receipts from retail sales, except such receipts for hotels and other lodging places classified in SIC 70, public golf courses in SIC 7992, and amusement parks in SIC 7996. For purposes of this paragraph, the term "predominantly" means that more than 50 percent of the business's gross receipts from all sources is generated by those activities usually provided for consideration by firms in the specified standard industrial classification. The determination of whether the business is located in a qualified county and the tier ranking of that county must be based on the date of application for the credit under this section. Commonly owned and controlled entities are to be considered a single business entity.

(b) "Qualified employee" means any employee of an eligible business who performs duties in connection with the operations of the business on a regular, full-time basis for an average of at least 36 hours per week for at least 3 months within the qualified county in which the eligible business is located. *The term also includes an employee leased from an employee leasing company licensed under chapter 468, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.* An owner or partner of the eligible business is not a qualified employee.

(c) "Qualified *area* ~~county~~" means *any area that is contained within a rural area of critical economic concern designated under s. 288.0656,*

a county that has a population of fewer than 75,000 persons, or any county that has a population of 100,000 or less and is contiguous to a county that has a population of less than 75,000, selected in the following manner: every third year, the Office of Tourism, Trade, and Economic Development shall rank and tier the state's counties according to the following four factors:

1. Highest unemployment rate for the most recent 36-month period.

2. Lowest per capita income for the most recent 36-month period.

3. Highest percentage of residents whose incomes are below the poverty level, based upon the most recent data available.

4. Average weekly manufacturing wage, based upon the most recent data available.

~~Tier-one qualified counties are those ranked 1-5 and represent the state's least-developed counties according to this ranking. Tier-two qualified counties are those ranked 6-10, and tier-three counties are those ranked 11-17. Notwithstanding this definition, "qualified county" also means a county that contains an area that has been designated as a federal Enterprise Community pursuant to the 1999 Agricultural Appropriations Act. Such a designated area shall be ranked in tier three until the areas are reevaluated by the Office of Tourism, Trade, and Economic Development.~~

(d) "New business" means any eligible business first beginning operation on a site in a qualified county and clearly separate from any other commercial or business operation of the business entity within a qualified county. A business entity that operated an eligible business within a qualified county within the 48 months before the period provided for application by subsection (2) is not considered a new business.

(e) "Existing business" means any eligible business that does not meet the criteria for a new business.

(2) A new eligible business may apply for a tax credit under this subsection once at any time during its first year of operation. A new eligible business in a tier-one qualified *area that* ~~county which~~ has at least 10 qualified employees on the date of application shall receive a *$1,000* ~~$1,500~~ tax credit for each such employee. ~~A new eligible business in a tier-two qualified county which has at least 20 qualified employees on the date of application shall receive a $1,000 tax credit for each such employee. A new eligible business in a tier-three qualified county which has at least 30 qualified employees on the date of application shall receive a $500 tax credit for each such employee.~~

(3) An existing eligible business may apply for a tax credit under this subsection at any time it is entitled to such credit, except as restricted by this subsection. An existing eligible business *with fewer than 50 employees* in a ~~tier-one~~ qualified *area that* ~~county which~~ on the date of application has at least *20 percent* ~~5~~ more qualified employees than it had 1 year prior to its date of application shall receive a *$1,000* ~~$1,500~~ tax credit for each such additional employee. An existing ~~eligible~~ business *that has 50 employees or more in a qualified area that, on the date of application, has at least 10 more qualified employees than it had 1 year prior to its date of application shall receive a $1,000 tax credit for each additional employee.* ~~in a tier-two qualified county which on the date of application has at least 10 more qualified employees than it had 1 year prior to its date of application shall receive a $1,000 credit for each such additional employee. An existing business in a tier-three qualified county which on the date of application has at least 15 more qualified employees than it had 1 year prior to its date of application shall receive a $500 tax credit for each such additional employee. An existing business may apply for the credit under this subsection no more than once in any 12-month period.~~ Any existing eligible business that received a credit under subsection (2) may not apply for the credit under this subsection sooner than 12 months after the application date for the credit under subsection (2).

(4) For any new eligible business receiving a credit pursuant to subsection (2), an additional $500 credit shall be provided for any qualified employee who is a welfare transition program participant. For any existing eligible business receiving a credit pursuant to subsection (3), an additional $500 credit shall be provided for any qualified employee who is a welfare transition program participant. Such employee must be employed on the application date and have been employed less than 1 year. This credit shall be in addition to other credits pursuant to this section regardless of the tier-level of the county. Appropriate documentation concerning the eligibility of an employee for this credit must be submitted as determined by the department.

(5) To be eligible for a tax credit under subsection (3), the number of qualified employees employed 1 year prior to the application date must be no lower than the number of qualified employees on the application date on which a credit under this section was based for any previous application, including an application under subsection (2).

(6)(a) In order to claim this credit, an eligible business must file under oath with the Office of Tourism, Trade, and Economic Development a statement that includes the name and address of the eligible business, the starting salary or hourly wages paid to the new employee, and any other information that the Department of Revenue requires.

(b) Within 30 working days after receipt of an application for credit, the Office of Tourism, Trade, and Economic Development shall review the application to determine whether it contains all the information required by this subsection and meets the criteria set out in this section. Subject to the provisions of paragraph (c), the Office of Tourism, Trade, and Economic Development shall approve all applications that contain the information required by this subsection and meet the criteria set out in this section as eligible to receive a credit.

(c) The maximum credit amount that may be approved during any calendar year is $5 million. The Department of Revenue, in conjunction with the Office of Tourism, Trade, and Economic Development, shall notify the governing bodies in areas designated as qualified counties when the $5 million maximum amount has been reached. Applications must be considered for approval in the order in which they are received without regard to whether the credit is for a new or existing business. This limitation applies to the value of the credit as contained in approved applications. Approved credits may be taken in the time and manner allowed pursuant to this section.

(d) A business may not receive more than $500,000 of tax credits during any one calendar year for its efforts in creating jobs.

(7) If the application is insufficient to support the credit authorized in this section, the Office of Tourism, Trade, and Economic Development shall deny the credit and notify the business of that fact. The business may reapply for this credit within 3 months after such notification.

(8) If the credit under this section is greater than can be taken on a single tax return, excess amounts may be taken as credits on any tax return submitted within 12 months after the approval of the application by the department.

(9) It is the responsibility of each business to affirmatively demonstrate to the satisfaction of the Department of Revenue that it meets the requirements of this section.

(10) Any person who fraudulently claims this credit is liable for repayment of the credit plus a mandatory penalty of 100 percent of the credit and is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(11) A corporation may take the credit under this section against its corporate income tax liability, as provided in s. 220.1895. However, a corporation that uses its job tax credit against the tax imposed by chapter 220 may not receive the credit provided for in this section. A credit may be taken against only one tax.

(12) The department shall adopt rules governing the manner and form of applications for credit and may establish guidelines as to the requisites for an affirmative showing of qualification for the credit under this section.

Section 4. *Reduction or waiver of financial match requirements.—Notwithstanding any other law, the member agencies and organizations of the Rural Economic Development Initiative (REDI), as defined in section 288.0656(6)(a), Florida Statutes, shall review the financial match requirements for projects in rural areas as defined in section 288.0656(2)(b), Florida Statutes.*

(1) Each agency and organization shall develop a proposal to waive or reduce the match requirement for rural areas.

(2) Agencies and organizations shall ensure that all proposals are submitted to the Office of Tourism, Trade, and Economic Development for review by the REDI agencies.

(3) These proposals shall be delivered to the Office of Tourism, Trade, and Economic Development for distribution to the REDI agencies and organizations. A meeting of REDI agencies and organizations must be called within 30 days after receipt of such proposals for REDI comment and recommendations on each proposal.

(4) Waivers and reductions must be requested by the county or community, and such county or community must have three or more of the factors identified in section 288.0656(2)(a), Florida Statutes.

(5) Any other funds available to the project may be used for financial match of federal programs when there is fiscal hardship and the match requirements may not be waived or reduced.

(6) When match requirements are not reduced or eliminated, donations of land, though usually not recognized as an in–kind match, may be permitted.

(7) To the fullest extent possible, agencies and organizations shall expedite the rule adoption and amendment process if necessary to incorporate the reduction in match by rural areas in fiscal distress.

(8) REDI shall include in its annual report an evaluation on the status of changes to rules, number of awards made with waivers, and recommendations for future changes.

Section 5. Subsection (1) of section 220.03, Florida Statutes, is amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(a) "Ad valorem taxes paid" means 96 percent of property taxes levied for operating purposes and does not include interest, penalties, or discounts foregone. In addition, the term "ad valorem taxes paid," for purposes of the credit in s. 220.182, means the ad valorem tax paid on new or additional real or personal property acquired to establish a new business or facilitate a business expansion, including pollution and waste control facilities, or any part thereof, and including one or more buildings or other structures, machinery, fixtures, and equipment. The provisions of this paragraph shall expire and be void on June 30, 2005.

(b) "Affiliated group of corporations" means two or more corporations which constitute an affiliated group of corporations as defined in s. 1504(a) of the Internal Revenue Code.

(c) "Business" or "business firm" means any business entity authorized to do business in this state as defined in paragraph (e), and any bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the provisions of this chapter. The provisions of this paragraph shall expire and be void on June 30, 2005.

(d) "Community contribution" means the grant by a business firm of any of the following items:

1. Cash or other liquid assets.

2. Real property.

3. Goods or inventory.

4. Other physical resources as identified by the department.

The provisions of this paragraph shall expire and be void on June 30, 2005.

(e) "Corporation" includes all domestic corporations; foreign corporations qualified to do business in this state or actually doing business in this state; joint-stock companies; limited liability companies, under chapter 608; common-law declarations of trust, under chapter 609; corporations not for profit, under chapter 617; agricultural cooperative marketing associations, under chapter 618; professional service corporations, under chapter 621; foreign unincorporated associations, under chapter 622; private school corporations, under chapter 623; foreign corporations not for profit which are carrying on their activities in this state; and all other organizations, associations, legal entities, and artificial persons which are created by or pursuant to the statutes of this state, the United States, or any other state, territory, possession, or jurisdiction. The term "corporation" does not include proprietorships, even if using a fictitious name; partnerships of any type, as such; limited liability companies that are taxable as partnerships for federal income tax purposes; state or public fairs or expositions, under chapter 616; estates of decedents or incompetents; testamentary trusts; or private trusts.

(f) "Department" means the Department of Revenue of this state.

(g) "Director" means the executive director of the Department of Revenue and, when there has been an appropriate delegation of authority, the executive director's delegate.

(h) "Earned," "accrued," "paid," or "incurred" shall be construed according to the method of accounting upon the basis of which a taxpayer's income is computed under this code.

(i) "Emergency," as used in s. 220.02 and in paragraph (u) of this subsection, means occurrence of widespread or severe damage, injury, or loss of life or property proclaimed pursuant to s. 14.022 or declared pursuant to s. 252.36. The provisions of this paragraph shall expire and be void on June 30, 2005.

(j) "Enterprise zone" means an area in the state designated pursuant to s. 290.0065. The provisions of this paragraph shall expire and be void on June 30, 2005.

(k) "Expansion of an existing business," for the purposes of the enterprise zone property tax credit, means any business entity authorized to do business in this state as defined in paragraph (e), and any bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the provisions of this chapter, located in an enterprise zone, which expands by or through additions to real and personal property and which establishes five or more new jobs to employ five or more additional full-time employees at such location. The provisions of this paragraph shall expire and be void on June 30, 2005.

(l) "Fiscal year" means an accounting period of 12 months or less ending on the last day of any month other than December or, in the case of a taxpayer with an annual accounting period of 52-53 weeks under s. 441(f) of the Internal Revenue Code, the period determined under that subsection.

(m) "Includes" or "including," when used in a definition contained in this code, shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2000, except as provided in subsection (3).

(o) "Local government" means any county or incorporated municipality in the state. The provisions of this paragraph shall expire and be void on June 30, 2005.

(p) "New business," for the purposes of the enterprise zone property tax credit, means any business entity authorized to do business in this state as defined in paragraph (e), or any bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the

provisions of this chapter, first beginning operations on a site located in an enterprise zone and clearly separate from any other commercial or industrial operations owned by the same entity, bank, or savings and loan association and which establishes five or more new jobs to employ five or more additional full-time employees at such location. The provisions of this paragraph shall expire and be void on June 30, 2005.

(q) "New employee," for the purposes of the enterprise zone jobs credit, means a person residing in an enterprise zone~~, a qualified Job Training Partnership Act classroom training participant,~~ or a ~~WAGES Program~~ participant *in the welfare transition program who is* employed at a business located in an enterprise zone who begins employment in the operations of the business after July 1, 1995, and who has not been previously employed *full-time* within the preceding 12 months by the business or a successor business claiming the credit pursuant to s. 220.181. A person shall be deemed to be employed by such a business if the person performs duties in connection with the operations of the business on a full-time basis, provided she or he is performing such duties for an average of at least 36 hours per week each month~~, or a part-time basis, provided she or he is performing such duties for an average of at least 20 hours per week each month throughout the year~~. *The term "jobs" also includes employment of an employee leased from an employee leasing company licensed under chapter 468, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.* The person must be performing such duties at a business site located in an enterprise zone. The provisions of this paragraph shall expire and be void on June 30, 2005.

(r) "Nonbusiness income" means rents and royalties from real or tangible personal property, capital gains, interest, dividends, and patent and copyright royalties, to the extent that they do not arise from transactions and activities in the regular course of the taxpayer's trade or business. The term "nonbusiness income" does not include income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations, or any amounts which could be included in apportionable income without violating the due process clause of the United States Constitution. For purposes of this definition, "income" means gross receipts less all expenses directly or indirectly attributable thereto. Functionally related dividends are presumed to be business income.

(s) "Partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization through or by means of which any business, financial operation, or venture is carried on, including a limited partnership; and the term "partner" includes a member having a capital or a profits interest in a partnership.

(t) *"Project" means any activity undertaken by an eligible sponsor, as defined in s. 220.183(2)(c), which is designed to construct, improve, or substantially rehabilitate housing that is affordable to low–income or very–low–income households as defined in s. 420.9071(19) and (28); designed to provide commercial, industrial, or public resources and facilities; or designed to improve entrepreneurial and job–development opportunities for low–income persons. A project may be the investment necessary to increase access to high–speed broadband capability in rural communities with enterprise zones, including projects that result in improvements to communications assets that are owned by a business. A project may include the provision of museum educational programs and materials that are directly related to any project approved between January 1, 1996, and December 31, 1999, and located in an enterprise zone as referenced in s. 290.00675. This paragraph does not preclude projects that propose to construct or rehabilitate low-income or very–low–income housing on scattered sites. The Office of Tourism, Trade, and Economic Development may reserve up to 50 percent of the available annual tax credits under s. 220.181 for housing for very–low–income households pursuant to s. 420.9071(28) for the first 6 months of the fiscal year. With respect to housing, contributions may be used to pay the following eligible project–related activities:*

1. Project development, impact, and management fees for low–income or very–low–income housing projects;

2. Down payment and closing costs for eligible persons, as defined in s. 420.9071(19) and (28);

3. Administrative costs, including housing counseling and marketing fees, not to exceed 10 percent of the community contribution, directly related to low–income or very–low–income projects; and

4. Removal of liens recorded against residential property by municipal, county, or special-district local governments when satisfaction of the lien is a necessary precedent to the transfer of the property to an eligible person, as defined in s. 420.9071(19) and (28), for the purpose of promoting home ownership. Contributions for lien removal must be received from a nonrelated third party. ~~"Project" means any activity undertaken by an eligible sponsor, as defined in s. 220.183(2)(c), which is designed to construct, improve, or substantially rehabilitate housing or commercial, industrial, or public resources and facilities or to improve entrepreneurial and job development opportunities for low-income persons.~~

The provisions of this paragraph shall expire and be void on June 30, 2005.

(u) "Rebuilding of an existing business" means replacement or restoration of real or tangible property destroyed or damaged in an emergency, as defined in paragraph (i), after July 1, 1995, in an enterprise zone, by a business entity authorized to do business in this state as defined in paragraph (e), or a bank or savings and loan association as defined in s. 220.62, subject to the tax imposed by the provisions of this chapter, located in the enterprise zone. The provisions of this paragraph shall expire and be void on June 30, 2005.

(v) "Regulations" includes rules promulgated, and forms prescribed, by the department.

(w) "Returns" includes declarations of estimated tax required under this code.

(x) "Secretary" means the secretary of the Department of Commerce. The provisions of this paragraph shall expire and be void on June 30, 2005.

(y) "State," when applied to a jurisdiction other than Florida, means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country, or any political subdivision of any of the foregoing.

(z) "Taxable year" means the calendar or fiscal year upon the basis of which net income is computed under this code, including, in the case of a return made for a fractional part of a year, the period for which such return is made.

(aa) "Taxpayer" means any corporation subject to the tax imposed by this code, and includes all corporations for which a consolidated return is filed under s. 220.131. However, "taxpayer" does not include a corporation having no individuals (including individuals employed by an affiliate) receiving compensation in this state as defined in s. 220.15 when the only property owned or leased by said corporation (including an affiliate) in this state is located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, property which becomes a part of the final printed product, or property from which the printed product is produced.

(bb) "Functionally related dividends" include the following types of dividends:

1. Those received from a subsidiary of which the voting stock is more than 50 percent owned or controlled by the taxpayer or members of its affiliated group and which is engaged in the same general line of business.

2. Those received from any corporation which is either a significant source of supply for the taxpayer or its affiliated group or a significant purchaser of the output of the taxpayer or its affiliated group, or which sells a significant part of its output or obtains a significant part of its raw materials or input from the taxpayer or its affiliated group. "Significant" means an amount of 15 percent or more.

3. Those resulting from the investment of working capital or some other purpose in furtherance of the taxpayer or its affiliated group.

However, dividends not otherwise subject to tax under this chapter are excluded.

(cc) "Child care facility startup costs" means expenditures for substantial renovation, equipment, including playground equipment and kitchen appliances and cooking equipment, real property, including land and improvements, and for reduction of debt, made in connection with a child care facility as defined by s. 402.302, or any facility providing daily care to children who are mildly ill, which is located in this state on the taxpayer's premises and used by the employees of the taxpayer.

(dd) "Operation of a child care facility" means operation of a child care facility as defined by s. 402.302, or any facility providing daily care to children who are mildly ill, which is located in this state within 5 miles of at least one place of business of the taxpayer and which is used by the employees of the taxpayer.

(ee) "Citrus processing company" means a corporation which, during the 60-month period ending on December 31, 1997, had derived more than 50 percent of its total gross receipts from the processing of citrus products and the manufacture of juices.

(ff) "New job has been created" means that the total number of full-time jobs has increased in an enterprise zone from the average of the previous 12 months, as demonstrated to the department by a business located in the enterprise zone.

(gg) "Jobs" means full-time positions, as consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation resulting directly from business operations in this state. This number may not include temporary construction jobs involved with the construction of facilities or any jobs that have previously been included in any application for tax credits under s. 220.181(1).

Section 6. Effective January 1, 2002, subsections (1) and (2) of section 220.181, Florida Statutes, are amended to read:

220.181 Enterprise zone jobs credit.—

(1)(a) Beginning *January* ~~July~~ 1, *2002* ~~1995~~, there shall be allowed a credit against the tax imposed by this chapter to any business located in an enterprise zone which *demonstrates to the department that the total number of full-time jobs has increased from the average of the previous 12 months. This credit is also available for a business that added a minimum of five new full-time jobs in an enterprise zone between July 1, 2000, and December 31, 2001* ~~employs one or more new employees~~. The credit shall be computed as *20* ~~follows:~~

~~1. Ten~~ percent of the actual monthly wages paid in this state to each new employee *hired when a new job has been created, as defined under s. 220.03(1)(ff), unless the business is located in a rural enterprise zone, pursuant to s. 290.004(8), in which case the credit shall be 30 percent of the actual monthly wages paid* ~~whose wages do not exceed $1,500 a month~~. If no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the credit shall be computed as *30* ~~15~~ percent of the actual monthly wages paid in this state to each new employee *hired when a new job has been created, unless the business is located in a rural enterprise zone, in which case the credit shall be 45 percent of the actual monthly wages paid*, for a period of up to *24* ~~12~~ consecutive months*. If the new employee hired when a new job is created is a participant in the welfare transition program, the following credit shall be a percent of the actual monthly wages paid: 40 percent for $4 above the hourly federal minimum wage rate; 41 percent for $5 above the hourly federal minimum wage rate; 42 percent for $6 above the hourly federal minimum wage rate; 43 percent for $7 above the hourly federal minimum wage rate; and 44 percent for $8 above the hourly federal minimum wage rate.*~~;~~

~~2. Five percent of the first $1,500 of actual monthly wages paid in this state for each new employee whose wages exceed $1,500 a month; or~~

~~3. Fifteen percent of the first $1,500 of actual monthly wages paid in this state for each new employee who is a welfare transition program participant.~~

(b) This credit applies only with respect to wages subject to unemployment tax and does not apply for any new employee who is employed for any period less than 3 full months.

(c) If this credit is not fully used in any one year, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

(2) When filing for an enterprise zone jobs credit, a business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, a statement which includes:

(a) For each new employee for whom this credit is claimed, the employee's name and place of residence during the taxable year, including the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the new employee resides if the new employee is a person residing in an enterprise zone, and, if applicable, documentation that the employee is a ~~qualified Job Training Partnership Act classroom training participant or a~~ welfare transition program participant.

(b) If applicable, the name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

(c) The name and address of the business.

(d) The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the eligible business is located.

(e) The salary or hourly wages paid to each new employee claimed.

(f) Demonstration to the department that the total number of full-time jobs has increased from the average of the previous 12 months.

(g)~~(f)~~ Whether the business is a small business as defined by s. 288.703(1).

Section 7. Subsections (1), (2), (3), and (4) of section 220.183, Florida Statutes, are amended to read:

220.183 Community contribution tax credit.—

(1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM SPENDING.—

(a) There shall be allowed a credit of 50 percent of a community contribution against any tax due for a taxable year under this chapter.

(b) No business firm shall receive more than $200,000 in annual tax credits for all approved community contributions made in any one year.

(c) The total amount of tax credit which may be granted for all programs approved under this section*, s. 212.08(5)(q),* and s. 624.5105 is $10 million annually.

(d) All proposals for the granting of the tax credit shall require the prior approval of the Office of Tourism, Trade, and Economic Development.

(e) If the credit granted pursuant to this section is not fully used in any one year because of insufficient tax liability on the part of the business firm, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

(f) A taxpayer who files a Florida consolidated return as a member of an affiliated group pursuant to s. 220.131(1) may be allowed the credit on a consolidated return basis.

(g) A taxpayer who is eligible to receive the credit provided for in s. 624.5105 is not eligible to receive the credit provided by this section.

(2) ELIGIBILITY REQUIREMENTS.—

(a) All community contributions by a business firm shall be in the form specified in s. 220.03(1)(d).

(b) All community contributions must be reserved exclusively for use in projects as defined in s. 220.03(1)(t). *The Office of Tourism, Trade, and Economic Development may reserve up to 50 percent of the available annual tax credits for housing for very-low-income households pursuant to s. 420.9071(28), for the first 6 months of the fiscal year.*

(c) The project must be undertaken by an "eligible sponsor," defined here as:

1. A community action program;

2. A *nonprofit community-based* ~~community~~ development *organization whose mission is the provision of housing for low-income or very-low-income households or increasing entrepreneurial and job-development opportunities for low-income persons* ~~corporation~~;

3. A neighborhood housing services corporation;

4. A local housing authority, created pursuant to chapter 421;

5. A community redevelopment agency, created pursuant to s. 163.356;

6. The Florida Industrial Development Corporation;

7. An historic preservation district agency or organization;

8. A *regional workforce board* ~~private industry council~~;

9. A direct-support organization as provided in s. 240.551;

10. An enterprise zone development agency created pursuant to *s. 290.0056* ~~s. 290.0057~~; ~~or~~

11. A community–based organization incorporated under chapter 617 which is recognized as educational, charitable, or scientific pursuant to s. 501(c)(3) of the Internal Revenue Code and whose by–laws and articles of incorporation include affordable housing, economic development, or community development as the primary mission of the corporation;

12. Units of local government;

13. Units of state government; or

14.~~11.~~ Such other agency as the Office of Tourism, Trade, and Economic Development may, from time to time, designate by rule.

In no event shall a contributing business firm have a financial interest in the eligible sponsor.

(d) The project shall be located in an area designated as an enterprise zone *or a Front Porch Florida Community pursuant to s. 14.2015(9)(b)* ~~pursuant to s. 290.0065~~. Any project designed to construct or rehabilitate *housing for low-income or very-low-income households as defined in s. 420.9071(19) and (28)* ~~low-income housing~~ is exempt from the area requirement of this paragraph. *This section does not preclude projects that propose to construct or rehabilitate housing for low–income or very–low–income households on scattered sites. Any project designed to provide increased access to high–speed broadband capabilities which includes coverage of a rural enterprise zone may locate the project's infrastructure in any area of a rural county.*

(3) APPLICATION REQUIREMENTS.—

(a) Any eligible sponsor wishing to participate in this program must submit a proposal to the Office of Tourism, Trade, and Economic Development which sets forth the sponsor, the project, the area in which the project is located, and such supporting information as may be prescribed by rule. The proposal shall also contain a resolution from the local governmental unit in which it is located certifying that the project is consistent with local plans and regulations.

(b) Any business wishing to participate in this program must submit an application for tax credit to the Office of Tourism, Trade, and Economic Development, which application sets forth the sponsor; the project; and the type, value, and purpose of the contribution. The sponsor shall verify the terms of the application and indicate its *receipt of* ~~willingness to receive~~ the contribution, ~~which verification indicate its willingness to receive the contribution,~~ which verification *must* ~~shall~~ be in writing and ~~shall~~ accompany the application for tax credit.

(c) The business firm must submit a separate application for tax credit for each individual contribution *that* ~~which~~ it *makes* ~~proposes to contribute~~ to each individual project.

(4) ADMINISTRATION.—

(a) The Office of Tourism, Trade, and Economic Development has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section, including rules for the approval or disapproval of proposals by business firms.

(b) The decision of the Office of Tourism, Trade, and Economic Development shall be in writing, and, if approved, the *notification must* ~~proposal shall~~ state the maximum credit allowable to the business firm. A copy of the decision shall be transmitted to the executive director of the Department of Revenue, who shall apply such credit to the tax liability of the business firm.

(c) The Office of Tourism, Trade, and Economic Development shall periodically monitor all projects in a manner consistent with available resources to ensure that resources are utilized in accordance with this section; however, each project shall be reviewed no less often than once every 2 years.

(d) The Department of Revenue has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section.

(e) The Office of Tourism, Trade, and Economic Development shall, in consultation with the Department of Community Affairs, the Florida Housing Finance Corporation, and the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community–based organizations.

Section 8. Section 288.018, Florida Statutes, is amended to read:

288.018 Regional Rural Development Grants Program.—

(1) The Office of Tourism, Trade, and Economic Development shall establish a matching grant program to provide funding to regionally based economic development organizations representing rural counties and communities for the purpose of building the professional capacity of their organizations. The Office of Tourism, Trade, and Economic Development is authorized to approve, on an annual basis, grants to such regionally based economic development organizations. The maximum amount an organization may receive in any year will be $35,000, or $100,000 in a rural area of critical economic concern recommended by the Rural Economic Development Initiative and designated by the Governor, and must be matched each year by an equivalent amount of nonstate resources.

(2) In approving the participants, the Office of Tourism, Trade, and Economic Development shall consider the demonstrated need of the applicant for assistance and require the following:

(a) Documentation of official commitments of support from each of the units of local government represented by the regional organization.

(b) Demonstration that each unit of local government has made a financial or in-kind commitment to the regional organization.

(c) Demonstration that the private sector has made financial or in-kind commitments to the regional organization.

(d) Demonstration that the organization is in existence and actively involved in economic development activities serving the region.

(e) Demonstration of the manner in which the organization is or will coordinate its efforts with those of other local and state organizations.

(3) The Office of Tourism, Trade, and Economic Development may also contract for the development of an enterprise zone web portal or web sites for each enterprise zone which will be used to market the program for job creation in disadvantaged urban and rural enterprise zones. Each enterprise zone web page should include downloadable links to state forms and information, as well as local message boards that help businesses and residents receive information concerning zone boundaries, job openings, zone programs, and neighborhood improvement activities.

(4)~~(3)~~ The Office of Tourism, Trade, and Economic Development may expend up to *$750,000* ~~$600,000~~ each fiscal year from funds appropriated to the Rural Community Development Revolving Loan Fund for the purposes outlined in this section. *The Office of Tourism, Trade, and Economic Development may contract with Enterprise Florida, Inc., for the administration of the purposes specified in this section. Funds released to Enterprise Florida, Inc., for this purpose shall be released quarterly and shall be calculated based on the applications in process.*

Section 9. Section 288.019, Florida Statutes, is created to read:

288.019 Rural considerations in grant review and evaluation processes.—Notwithstanding any other law, and to the fullest extent possible, the member agencies and organizations of the Rural Economic Development Initiative (REDI) as defined in s. 288.0656(6)(a) shall review all grant and loan application evaluation criteria to ensure the fullest access for rural counties as defined in s. 288.0656(2)(b) to resources available throughout the state.

(1) Each REDI agency and organization shall review all evaluation and scoring procedures and develop modifications to those procedures which minimize the impact of a project within a rural area.

(2) Evaluation criteria and scoring procedures must provide for an appropriate ranking based on the proportionate impact that projects have on a rural area when compared with similar project impacts on an urban area.

(3) Evaluation criteria and scoring procedures must recognize the disparity of available fiscal resources for an equal level of financial support from an urban county and a rural county.

(a) The evaluation criteria should weight contribution in proportion to the amount of funding available at the local level.

(b) In–kind match should be allowed and applied as financial match when a county is experiencing financial distress through elevated unemployment at a rate in excess of the state's average by 5 percentage points or because of the loss of its ad valorem base.

(4) For existing programs, the modified evaluation criteria and scoring procedure must be delivered to the Office of Tourism, Trade, and Economic Development for distribution to the REDI agencies and organizations. The REDI agencies and organizations shall review and make comments. Future rules, programs, evaluation criteria, and scoring processes must be brought before a REDI meeting for review, discussion, and recommendation to allow rural counties fuller access to the state's resources.

Section 10. Subsection (2) of section 288.065, Florida Statutes, is amended to read:

288.065 Rural Community Development Revolving Loan Fund.—

(2) The program shall provide for long-term loans, loan guarantees, and loan loss reserves to units of local governments*, or economic development organizations substantially underwritten by a unit of local government,* within counties with populations of 75,000 or less, or any county that has a population of 100,000 or less and is contiguous to a county with a population of 75,000 or less, as determined by the most recent official estimate pursuant to s. 186.901, residing in incorporated and unincorporated areas of the county*, or to units of local government, or economic development organizations substantially underwritten by a unit of local government, within a rural area of critical economic concern*. Requests for loans shall be made by application to the Office of Tourism, Trade, and Economic Development. Loans shall be made pursuant to agreements specifying the terms and conditions agreed to between the *applicant* ~~local government~~ and the Office of Tourism, Trade, and Economic Development. The loans shall be the legal obligations of the *applicant* ~~local government~~. All repayments of principal and interest shall be returned to the loan fund and made available for loans to other applicants. However, in a rural area of critical economic concern designated by the Governor, and upon approval by the Office of Tourism, Trade, and Economic Development, repayments of principal and interest may be retained by *the applicant* ~~a unit of local government~~ if such repayments are dedicated and matched to fund regionally based economic development organizations representing the rural area of critical economic concern.

Section 11. Subsection (6) of section 288.0656, Florida Statutes, is amended to read:

288.0656 Rural Economic Development Initiative.—

(6)(a) *By* ~~No later than~~ August 1 *of each year*~~, 1999~~, the head of each of the following agencies and organizations shall designate a high-level staff person from within the agency or organization to serve as the REDI representative for the agency or organization:

1. The Department of Community Affairs.

2. The Department of Transportation.

3. The Department of Environmental Protection.

4. The Department of Agriculture and Consumer Services.

5. The Department of State.

6. The Department of Health.

7. The Department of Children and Family Services.

8. The Department of Corrections.

9. The *Agency for Workforce Innovation* ~~Department of Labor and Employment Security~~.

10. The Department of Education.

11. The Department of Juvenile Justice.

12.~~11.~~ The Fish and Wildlife Conservation Commission.

13.~~12.~~ Each water management district.

14.~~13.~~ Enterprise Florida, Inc.

15. Workforce Florida, Inc.

16.~~14.~~ The Florida Commission on Tourism or VISIT Florida.

17.~~15.~~ The Florida Regional Planning Council Association.

18.~~16.~~ The Florida State Rural Development Council.

19.~~17.~~ The Institute of Food and Agricultural Sciences (IFAS).

An alternate for each designee shall also be chosen, and the names of the designees and alternates shall be sent to the director of the Office of Tourism, Trade, and Economic Development.

(b) Each REDI representative must have comprehensive knowledge of his or her agency's functions, both regulatory and service in nature, and of the state's economic goals, policies, and programs. This person shall be the primary point of contact for his or her agency with REDI on issues and projects relating to economically distressed rural

communities and with regard to expediting project review, shall ensure a prompt effective response to problems arising with regard to rural issues, and shall work closely with the other REDI representatives in the identification of opportunities for preferential awards of program funds and allowances and waiver of program requirements when necessary to encourage and facilitate long-term private capital investment and job creation.

(c) The REDI representatives shall work with REDI in the review and evaluation of statutes and rules for adverse impact on rural communities and the development of alternative proposals to mitigate that impact.

(d) Each REDI representative shall be responsible for ensuring that each district office or facility of his or her agency is informed about the Rural Economic Development Initiative and for providing assistance throughout the agency in the implementation of REDI activities.

Section 12. Section 288.1088, Florida Statutes, is amended to read:

288.1088 Quick Action Closing Fund.—

(1)(a) The Legislature finds that attracting, retaining, and providing favorable conditions for the growth of certain high-impact business facilities*, privately developed critical rural infrastructure, or key facilities in economically distressed urban or rural communities which provide* ~~provides~~ widespread economic benefits to the public through high-quality employment opportunities in such facilities *or* ~~and~~ in related facilities attracted to the state, through the increased tax base provided by the high-impact facility and *related* businesses ~~in related sectors~~, through an enhanced entrepreneurial climate in the state and the resulting business and employment opportunities, and through the stimulation and enhancement of the state's universities and community colleges. In the global economy, there exists serious and fierce international competition for these facilities, and in most instances, when all available resources for economic development have been used, the state continues to encounter severe competitive disadvantages in vying for these ~~high-impact~~ business facilities. *Florida's rural areas must provide a competitive environment for business in the information age. This often requires an incentive to make it feasible for private investors to provide infrastructure in those areas.*

(b) The Legislature therefore declares that sufficient resources shall be available to respond to extraordinary economic opportunities and to compete effectively for these high-impact business facilities*, critical private infrastructure in rural areas, and key businesses in economically distressed urban or rural communities*.

(2) There is created within the Office of Tourism, Trade, and Economic Development the Quick Action Closing Fund.

(3)(a) Enterprise Florida, Inc., shall evaluate individual proposals for high-impact business facilities and forward recommendations regarding the use of moneys in the fund for such facilities to the director of the Office of Tourism, Trade, and Economic Development. Such evaluation and recommendation must include, but need not be limited to:

1. A description of the type of facility *or infrastructure*, its *operations* ~~business operation~~, and the *associated* product or service associated with the facility.

2. The number of full-time-equivalent jobs that will be created by the facility and the total estimated average annual wages of those jobs *or, in the case of privately developed rural infrastructure, the types of business activities and jobs stimulated by the investment*.

3. The cumulative amount of investment to be dedicated to the facility within a specified period.

4. A statement of any special impacts the facility is expected to stimulate in a particular business sector in the state or regional economy or in the state's universities and community colleges.

5. A statement of the role the incentive is expected to play in the decision of the applicant business to locate or expand in this state *or for the private investor to provide critical rural infrastructure*.

(b) Upon receipt of the evaluation and recommendation from Enterprise Florida, Inc., the director shall recommend approval or disapproval of a project for receipt of funds from the Quick Action Closing Fund to the Governor. In recommending a *project* ~~high-impact business facility~~, the director shall include proposed performance conditions that the *project* ~~facility~~ must meet to obtain incentive funds. The Governor shall consult with the President of the Senate and the Speaker of the House of Representatives before giving final approval for a project. The Executive Office of the Governor shall recommend approval of a project and release of funds pursuant to the legislative consultation and review requirements set forth in s. 216.177. The recommendation must include proposed performance conditions the project must meet to obtain funds.

(c) Upon the approval of the Governor, the director of the Office of Tourism, Trade, and Economic Development and the ~~high-impact~~ business shall enter into a contract that sets forth the conditions for payment of moneys from the fund. The contract must include the total amount of funds awarded; the performance conditions that must be met to obtain the award, including, but not limited to, net new employment in the state, average salary, and total capital investment; *demonstrate a baseline of current service and a measure of enhanced capability;* the methodology for validating performance; the schedule of payments from the fund; and sanctions for failure to meet performance conditions.

(d) Enterprise Florida, Inc., shall validate contractor performance. Such validation shall be reported within 6 months after completion of the contract to the Governor, President of the Senate, and the Speaker of the House of Representatives.

Section 13. Subsection (2) of section 288.9015, Florida Statutes, is amended to read:

288.9015 Enterprise Florida, Inc.; purpose; duties.—

(2) It shall be the responsibility of Enterprise Florida, Inc., to aggressively market Florida's rural communities*,* ~~and~~ distressed urban communities*, and enterprise zones* as locations for potential new investment, to aggressively assist in the retention and expansion of existing businesses in these communities, and to aggressively assist these communities in the identification and development of new economic development opportunities for job creation*, fully using state incentive programs such as the Qualified Target Industry Tax Refund Program under s. 288.106 and the Quick Action Closing Fund under s. 288.1088 in economically distressed areas*.

Section 14. Section 290.004, Florida Statutes, is amended to read:

290.004 Definitions relating to Florida Enterprise Zone Act.—As used in ss. 290.001-290.016:

(1) "Community investment corporation" means a black business investment corporation, a certified development corporation, a small business investment corporation, or other similar entity incorporated under Florida law that has limited its investment policy to making investments solely in minority business enterprises.

(2) "Department" means the Department of Commerce.

(3) "Director" means the director of the Office of Tourism, Trade, and Economic Development.

(4) "Governing body" means the council or other legislative body charged with governing the county or municipality.

(5) "Interagency coordinating council" means the Enterprise Zone Interagency Coordinating Council created pursuant to s. 290.009.

(6) "Minority business enterprise" has the same meaning as in s. 288.703.

(7) "Office" means the Office of Tourism, Trade, and Economic Development.

(8) "Rural enterprise zone" means an enterprise zone that is nominated by a county having a population of 75,000 or fewer, or a county having a population of 100,000 or fewer which is contiguous to a

county having a population of 75,000 or fewer, or by a municipality in such a county, or by such a county and one or more municipalities. An enterprise zone designated in accordance with s. 370.28 or s. 290.0065(5)(b), is considered to be a rural enterprise zone.

(9)~~(8)~~ "Secretary" means the Secretary of Commerce.

(10)~~(9)~~ "Small business" has the same meaning as in s. 288.703.

Section 15. *Enterprise zone designation for Sarasota County or Sarasota County and Sarasota.—Sarasota County, or Sarasota County and the City of Sarasota jointly, may apply to the Office of Tourism, Trade, and Economic Development for designation of one enterprise zone within the county, or within both the county and the municipality, which zone encompasses an area that is south of the north county line, west of Tuttle Avenue, north of 10th Street, and east of U.S. Highway 41. The application must be submitted by December 31, 2001, and must comply with the requirements of section 290.0055, Florida Statutes. Notwithstanding the provisions of section 290.0065, Florida Statutes, limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the Office of Tourism, Trade, and Economic Development may designate one enterprise zone under this section. The Office of Tourism, Trade, and Economic Development shall establish the initial effective date of the enterprise zone designated under this section.*

Section 16. Section 290.00555, Florida Statutes, is amended to read:

290.00555 Satellite enterprise zones.~~—Before December 31, 1999,~~ Any municipality an area of which has previously received designation as an enterprise zone in the population category described in s. 290.0065(3)(a)3. may create a satellite enterprise zone not exceeding 1.5 square miles in area outside of and, notwithstanding anything contained in s. 290.0055(4), or any other law, in addition to the previously designated enterprise zone boundaries. The Office of Tourism, Trade, and Economic Development shall amend the boundaries of the areas previously designated by any such municipality as enterprise zones upon receipt of a resolution adopted by the municipality describing the satellite enterprise zone areas, as long as the additional areas are consistent with the categories, criteria, and limitations imposed by s. 290.0055. However, the requirements imposed by s. 290.0055(4)(d) do not apply to such satellite enterprise zone areas.

Section 17. *Satellite enterprise zones may be created pursuant to section 290.00555, Florida Statutes, effective retroactively to December 31, 1999. Resolutions adopted to create satellite enterprise zones under this section must be submitted to the Office of Tourism, Trade, and Economic Development no later than August 1, 2001. The Office of Tourism, Trade, and Economic Development must amend the boundaries of previously designated enterprise zones to create eligible satellite enterprise zones no later than September 1, 2001. Notwithstanding the time limitations contained in chapter 212, Florida Statutes, a business in a satellite enterprise zone designated under this section which was eligible to receive tax incentives pursuant to section 212.08(5)(g) and (h) and section 212.096, Florida Statutes, during the period beginning December 31, 1999, and ending on the date of the creation of the satellite enterprise zone, must submit an application for the tax incentives by December 1, 2001. All other requirements of the enterprise zone program apply to such a business.*

Section 18. Section 290.0065, Florida Statutes, is amended to read:

290.0065 State designation of enterprise zones.—

(1) Upon application of the governing body of a county or municipality or of a county and one or more municipalities jointly pursuant to s. 290.0055, *Enterprise Florida, Inc., and* the *office* ~~department~~, in consultation with the interagency coordinating council, shall determine which areas nominated by such governing bodies meet the criteria outlined in s. 290.0055 and are the most appropriate for designation as state enterprise zones. The *office* ~~department~~ is authorized to designate up to 5 areas within each of the categories established in subparagraphs (3)(a)1., 2., 3., 4., and 5., except that the *office* ~~department~~ may only designate a total of 20 areas as enterprise zones. The *office* ~~department~~ shall not designate more than three enterprise zones in any one county. All designations, including any provision for redesignations, of state enterprise zones pursuant to this section shall be effective July 1, 1995.

(2) Each application made pursuant to s. 290.0055 shall be ranked competitively within the appropriate category established pursuant to subsection (3) based on the pervasive poverty, unemployment, and general distress of the area; the strategic plan, including local fiscal and regulatory incentives, prepared pursuant to s. 290.0057; and the prospects for new investment and economic development in the area. Pervasive poverty, unemployment, and general distress shall be weighted 35 percent; strategic plan and local fiscal and regulatory incentives shall be weighted 40 percent; and prospects for new investment and economic development in the area shall be weighted 25 percent.

(3)(a) Each area designated as an enterprise zone pursuant to this section shall be placed in one of the following categories based on the 1990 census:

1. Communities consisting of census tracts in areas having a total population of 150,000 persons or more.

2. Communities consisting of census tracts in areas having a total population of 50,000 persons or more but less than 150,000 persons.

3. Communities having a population of 20,000 persons or more but less than 50,000 persons.

4. Communities having a population of 7,500 persons or more but less than 20,000 persons.

5. Communities having a population of less than 7,500 persons.

(b) Any area authorized to be an enterprise zone by both a county and a municipality shall be placed in the appropriate category established under paragraph (a) in which an application by the municipality would have been considered if the municipality had acted alone, if at least 60 percent of the population of the area authorized to be an enterprise zone resides within the municipality. An area authorized to be an enterprise zone by a county and one or more municipalities shall be placed in the category in which an application by the municipality with the highest percentage of residents in such area would have been considered if such municipality had authorized the area to be an enterprise zone. An area authorized to be an enterprise zone by a county as defined by s. 125.011(1) shall be placed in the category in which an application by the municipality in which the area is located would have been considered if the municipality had authorized such area to be an enterprise zone. An area authorized to be an enterprise zone by a county as defined by s. 125.011(1) which area is located in two or more municipalities shall be placed in the category in which an application by the municipality with the highest percentage of residents in such area would have been considered if such municipality had authorized such area to be an enterprise zone.

(4)(a) Notwithstanding s. 290.0055, any area existing as a state enterprise zone as of the effective date of this section and originally approved through a joint application from a county and municipality, or through an application from a county as defined in s. 125.011(1), shall be redesignated as a state enterprise zone upon the creation of an enterprise zone development agency pursuant to s. 290.0056 and the completion of a strategic plan pursuant to s. 290.0057. Any area redesignated pursuant to this subsection, other than an area located in a county defined in s. 125.011(1), may be relocated or modified by the appropriate governmental bodies. Such relocation or modification shall be identified in the strategic plan and shall meet the requirements for designation as established by s. 290.005. Any relocation or modification shall be submitted on or before June 1, 1996.

(b) The *office* ~~department~~ shall place any area designated as a state enterprise zone pursuant to this subsection in the appropriate category established in subsection (3), and include such designations within the limitations on state enterprise zone designations set out in subsection (1).

(c) Any county or municipality having jurisdiction over an area designated as a state enterprise zone pursuant to this subsection, other than a county defined by s. 125.011(1), may not apply for designation of another area.

(5) Notwithstanding s. 290.0055, an area designated as a federal empowerment zone or enterprise community pursuant to Title XIII of the Omnibus Budget Reconciliation Act of 1993, the Taxpayer Relief Act of 1997, or the 1999 Agricultural Appropriations Act shall be designated a state enterprise zone as follows:

(a) An area designated as an urban empowerment zone or urban enterprise community pursuant to Title XIII of the Omnibus Budget Reconciliation Act of 1993 or the Taxpayer Relief Act of 1997 shall be designated a state enterprise zone by the *office* ~~department~~ upon completion of the requirements set out in paragraph (d), except in the case of a county as defined in s. 125.011(1) which, notwithstanding s. 290.0055, may incorporate and include such designated urban empowerment zone or urban enterprise community areas within the boundaries of its state enterprise zones without any limitation as to size.

(b) An area designated as a rural empowerment zone or rural enterprise community pursuant to Title XIII of the Omnibus Budget Reconciliation Act of 1993 or the 1999 Agricultural Appropriations Act shall be designated a state *rural* enterprise zone by the *office* ~~department~~ upon completion of the requirements set out in paragraph (d) *and may incorporate and include such designated rural empowerment zone or rural enterprise community within the boundaries of its state enterprise zones without any limitation as to size*.

(c) Any county or municipality having jurisdiction over an area designated as a state enterprise zone pursuant to this subsection, other than a county defined in s. 125.011(1), may not apply for designation of another area.

(d) Prior to designating such areas as state enterprise zones, the *office* ~~department~~ shall ensure that the governing body having jurisdiction over the zone submits the strategic plan required pursuant to 7 C.F.R. part 25 or 24 C.F.R. part 597 to the *office* ~~department~~, and creates an enterprise zone development agency pursuant to s. 290.0056.

(e) The *office* ~~department~~ shall place any area designated as a state enterprise zone pursuant to this subsection in the appropriate category established in subsection (3), and include such designations within the limitations on state enterprise zone designations set out in subsection (1).

(6)(a) The *office* ~~department~~, in consultation with *Enterprise Florida, Inc., and* the interagency coordinating council, *may develop guidelines* ~~shall promulgate any rules~~ necessary for the approval of areas under this section by the *director* ~~secretary~~.

(b) Such *guidelines* ~~rules~~ shall provide for the measurement of pervasive poverty, unemployment, and general distress using the criteria outlined by s. 290.0058.

(c) Such *guidelines* ~~rules~~ shall provide for the evaluation of the strategic plan and local fiscal and regulatory incentives for effectiveness, including how the following key principles will be implemented by the governing body or bodies:

1. Economic opportunity, including job creation within the community and throughout the region, as well as entrepreneurial initiatives, small business expansion, and training for jobs that offer upward mobility.

2. Sustainable community development that advances the creation of livable and vibrant communities through comprehensive approaches that coordinate economic, physical, community, and human development.

3. Community-based partnerships involving the participation of all segments of the community.

4. Strategic vision for change that identifies how the community will be revitalized. This vision should include methods for building on community assets and coordinate a response to community needs in a comprehensive fashion. This vision should provide goals and performance benchmarks for measuring progress and establish a framework for evaluating and adjusting the strategic plan.

5. Local fiscal and regulatory incentives enacted pursuant to s. 290.0057(1)(e). These incentives should induce economic revitalization, including job creation and small business expansion.

(d) Such *guidelines may* ~~rules shall~~ provide methods for evaluating the prospects for new investment and economic development in the area, including a review and evaluation of any previous state enterprise zones located in the area.

(7) Upon approval by the *director* ~~secretary~~ of a resolution authorizing an area to be an enterprise zone pursuant to this section, the *office* ~~department~~ shall assign a unique identifying number to that resolution. The *office* ~~department~~ shall provide the Department of Revenue *and Enterprise Florida, Inc.,* with a copy of each resolution approved, together with its identifying number.

(8)(a) Notwithstanding s. 290.0055, any area existing as a state enterprise zone as of December 30, 1994, which has received at least $1 million in state community development funds and at least $500,000 in federal community development funds, which has less than 300 businesses located within the boundaries of the enterprise zone, and which has been designated by the United States Department of Agriculture as a "Champion Community" shall be redesignated as a state enterprise zone upon the creation of an enterprise zone development agency pursuant to s. 290.0056 and the completion of a strategic plan pursuant to s. 290.0057.

(b) Such designation shall be in addition to the limitations of state enterprise zone designation set out in subsection (1).

~~(9) The Office of Tourism, Trade, and Economic Development may amend the boundaries of any enterprise zone designated by the state pursuant to this section, consistent with the categories, criteria, and limitations imposed in this section upon the establishment of such enterprise zone and only if consistent with the determinations made in s. 290.0058(2).~~

(9)~~(10)~~ Before December 31, 1998, the governing body of a county in which an enterprise zone designated pursuant to paragraph (5)(b) is located may apply to the Office of Tourism, Trade, and Economic Development to amend the boundaries of the enterprise zone for the purpose of replacing areas not suitable for development. The Office of Tourism, Trade, and Economic Development shall approve the application if it does not increase the overall size of the enterprise zone. Except that upon the request of the governing body of a home rule charter county, or any county the government of which has been consolidated with the government of one or more municipalities in accordance with s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the State Constitution as revised in 1968 and subsequently amended, the Office of Tourism, Trade, and Economic Development may amend the boundaries of an area designated as an enterprise zone upon the receipt of a resolution adopted by such governing body describing the amended boundaries, so long as the added area does not increase the overall size of the expanded zone more than its original size or 20 square miles, whichever is larger, and is consistent with the categories, criteria, and limitations imposed by s. 290.0055.

(10)~~(11)~~ Before December 31, 1999, any county as defined in s. 125.011(1) may create a satellite enterprise zone not exceeding 3 square miles in area outside of and, notwithstanding anything contained in s. 290.0055(4) or elsewhere, in addition to the previously designated 20 square miles of enterprise zones. The Office of Tourism, Trade, and Economic Development shall amend the boundaries of the areas previously designated by any such county as enterprise zones upon the receipt of a resolution adopted by such governing body describing the satellite enterprise zone, as long as the additional area is consistent with the categories, criteria, and limitations imposed by s. 290.0055, provided that the 20-square-mile limitation and the requirements

imposed by s. 290.0055(4)(d) do not apply to such satellite enterprise zone.

Section 19. Section 290.00676, Florida Statutes, is created to read:

290.00676 Amendment of rural enterprise zone boundaries.—Notwithstanding any other law, upon recommendation by Enterprise Florida, Inc., the Office of Tourism, Trade, and Economic Development may approve requests to amend the boundaries of rural enterprise zones as defined in s. 290.004(8). Boundary amendments authorized by this section are subject to the following requirements:

(1) The amendment may increase the size of the rural enterprise zone up to a maximum zone size of 20 square miles.

(2) The amendment may increase the zone's number of noncontiguous areas by one, if the additional noncontiguous area has zero population. For purposes of this subsection, the pervasive poverty criteria may be set aside for the addition of a noncontiguous area.

(3) The local enterprise zone development agency must request the amendment from Enterprise Florida, Inc., prior to December 30, 2001. The request must contain maps and sufficient information to allow the office to determine the number of noncontiguous areas and the total size of the rural enterprise zone.

Section 20. Section 290.00677, Florida Statutes, is created to read:

290.00677 Rural enterprise zones; special qualifications.—

(1) Notwithstanding the enterprise zone residency requirements set out in s. 212.096(1)(c), eligible businesses as defined by s. 212.096(1)(a), located in rural enterprise zones as defined by s. 290.004, may receive the basic minimum credit provided under s. 212.096 for creating a new job and hiring a person residing within the jurisdiction of a rural county, as defined by s. 288.106(1)(r). All other provisions of s. 212.096, including, but not limited to, those relating to the award of enhanced credits, apply to such businesses.

(2) Notwithstanding the enterprise zone residency requirements set out in s. 220.03(1)(q), eligible businesses as defined by s. 212.096(1)(a), located in rural enterprise zones as defined in s. 290.004, may receive the basic minimum credit provided under s. 220.181 for creating a new job and hiring a person residing within the jurisdiction of a rural county, as defined by s. 288.106(1)(r). All other provisions of s. 220.181, including, but not limited to, those relating to the award of enhanced credits apply to such businesses.

Section 21. Section 290.00694, Florida Statutes, is created to read:

290.00694 Enterprise zone designation for rural communities.—An area designated as a rural champion community under the Taxpayer Relief Act of 1997 or a community within a designated rural area of critical economic concern under s. 288.0656 may submit an application to Enterprise Florida, Inc., for review and recommendation to the office for designation as an enterprise zone. The application must be submitted by December 31, 2001. Notwithstanding the provisions of s. 290.0065 limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the Office of Tourism, Trade, and Economic Development may designate enterprise zones under this section. Upon completion of the requirements set out in s. 290.0065(5)(d), the Office of Tourism, Trade, and Economic Development shall establish the initial effective date of the enterprise zones designated pursuant to this section. Only one community in each county in a rural area of critical economic concern may be designated as an enterprise zone.

Section 22. Subsection (3) of section 290.007, Florida Statutes, is amended to read:

290.007 State incentives available in enterprise zones.—The following incentives are provided by the state to encourage the revitalization of enterprise zones:

(3) The community contribution tax credits provided in ss. *212.08,* 220.183*,* and 624.5105.

Section 23. Subsection (7) is added to section 290.048, Florida Statutes, to read:

290.048 General powers of Department of Community Affairs under ss. 290.0401-290.049.—The department has all the powers necessary or appropriate to carry out the purposes and provisions of the program, including the power to:

(7) Establish advisory committees and solicit participation in designing, administering, and evaluating the program and in linking the program with other housing and community development resources.

Section 24. *Section 290.049, Florida Statutes, is repealed.*

Section 25. *Subsection (4) of section 370.28, Florida Statutes, is repealed.*

Section 26. Paragraph (e) of subsection (2) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(2) STATEWIDE GUIDELINES AND STANDARDS.—

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

Section 27. Subsections (15) and (19) of section 420.503, Florida Statutes, are amended to read:

420.503 Definitions.—As used in this part, the term:

(15) "Elderly" means persons 62 years of age or older*; however, this definition does not prohibit housing from being deemed housing for the elderly as defined in subsection (19) if such housing otherwise meets the requirements of subsection (19).*

(19) "Housing for the elderly" means, for purposes of s. 420.5087(3)(c)2., any nonprofit housing community that is financed by a mortgage loan made or insured by the United States Department of Housing and Urban Development under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), or s. 236 of the National Housing Act, as amended, and that is subject to income limitations established by the United States Department of Housing and Urban Development, or any program funded by the Rural Development Agency of the United States Department of Agriculture and subject to income limitations established by the United States Department of Agriculture. A project which qualifies for an exemption under the Fair Housing Act as housing for

older persons as defined by s. 760.29(4) shall qualify as housing for the elderly for purposes of s. 420.5087(3)(c)2. *and for purposes of any loans made under s. 420.508.* In addition, if the corporation adopts a qualified allocation plan pursuant to s. 42(m)(1)(B) of the Internal Revenue Code or any other rules that prioritize projects targeting the elderly for purposes of allocating tax credits pursuant to s. 420.5099 or for purposes of the HOME program under s. 420.5089, a project which qualifies for an exemption under the Fair Housing Act as housing for older persons as defined by s. 760.29(4) shall qualify as a project targeted for the elderly, if the project satisfies the other requirements set forth in this part.

Section 28. Subsection (39) is added to section 420.507, Florida Statutes, to read:

420.507 Powers of the corporation.—The corporation shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers which are in addition to all other powers granted by other provisions of this part:

(39) To create recognition programs to honor individuals, community–based development organizations, units of local government, or others who have demonstrated the ideals of community stewardship and increased access to housing for low–income households, including their stewardship in economically distressed areas. Such programs may incorporate certificates of recognition by the Governor and may include presentation by the Governor or his representative.

Section 29. Paragraph (a) of subsection (1) of section 420.5088, Florida Statutes, is amended to read:

420.5088 Florida Homeownership Assistance Program.—There is created the Florida Homeownership Assistance Program for the purpose of assisting low-income persons in purchasing a home by reducing the cost of the home with below-market construction financing, by reducing the amount of down payment and closing costs paid by the borrower to a maximum of 5 percent of the purchase price, or by reducing the monthly payment to an affordable amount for the purchaser. Loans shall be made available at an interest rate that does not exceed 3 percent. The balance of any loan is due at closing if the property is sold or transferred.

(1) For loans made available pursuant to s. 420.507(23)(a)1. or 2.:

(a) The corporation may underwrite and make those mortgage loans through the program to persons or families ~~who are eligible to participate in the corporation's single-family mortgage revenue bond programs and~~ who have incomes that do not exceed 80 percent of the state or local median income, whichever is greater, adjusted for family size. ~~If the corporation determines that there is insufficient demand for such loans by persons or families who are eligible to participate in the corporation's single-family mortgage revenue bond programs, the corporation may make such mortgage loans to other persons or families who have incomes that do not exceed 80 percent of the state or local median income, whichever amount is greater.~~

Section 30. Subsection (11) of section 420.5092, Florida Statutes, is amended to read:

420.5092 Florida Affordable Housing Guarantee Program.—

(11) The maximum total amount of revenue bonds that may be issued by the corporation pursuant to subsection (5) is *$400* ~~$200~~ million.

Section 31. Subsections (2), (4), and (5) of section 624.5105, Florida Statutes, are amended to read:

624.5105 Community contribution tax credit; authorization; limitations; eligibility and application requirements; administration; definitions; expiration.—

(2) ELIGIBILITY REQUIREMENTS.—

(a) Each community contribution by an insurer must be in a form specified in subsection (5).

(b) Each community contribution must be reserved exclusively for use in a project *as defined in s. 220.03(1)(t)*.

(c) The project must be undertaken by an "eligible sponsor," *as* ~~which term is~~ defined *in s. 220.183(2)(c).* ~~as:~~

~~1. A community action program;~~

~~2. A community development corporation;~~

~~3. A neighborhood housing services corporation;~~

~~4. A local housing authority created pursuant to chapter 421;~~

~~5. A community redevelopment agency created pursuant to s. 163.356;~~

~~6. The Florida Industrial Development Corporation;~~

~~7. A historic preservation district agency or organization;~~

~~8. A private industry council;~~

~~9. An enterprise zone development agency created pursuant to s. 290.0057; or~~

~~10. Such other agency as the director may, from time to time, designate by rule.~~

In no event shall a contributing insurer have a financial interest in the eligible sponsor.

(d) The project shall be located in an area designated as an enterprise zone *or a Front Porch Community* pursuant to *s. 14.2015(9)(b)* ~~s. 290.0065~~. Any project designed to construct or rehabilitate *housing for low–income or very–low–income households as defined in s. 420.9071(19) and (28)* ~~low-income housing~~ is exempt from the area requirement of this paragraph.

(4) ADMINISTRATION.—

(a)1. The Office of Tourism, Trade, and Economic Development is authorized to adopt all rules necessary to administer this section, including rules for the approval or disapproval of proposals by insurers.

2. The decision of the director shall be in writing, and, if approved, the proposal shall state the maximum credit allowable to the insurer. A copy of the decision shall be transmitted to the executive director of the Department of Revenue, who shall apply such credit to the tax liability of the insurer.

3. The office shall monitor all projects periodically, in a manner consistent with available resources to ensure that resources are utilized in accordance with this section; however, each project shall be reviewed no less frequently than once every 2 years.

4. The Office of Tourism, Trade, and Economic Development shall, in consultation with the Department of Community Affairs, the Florida Housing Finance Corporation, and the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community–based organizations.

(b) The Department of Revenue shall adopt any rules necessary to ensure the orderly implementation and administration of this section.

(5) DEFINITIONS.—For the purpose of this section:

(a) "Community contribution" means the grant by an insurer of any of the following items:

1. Cash or other liquid assets.

2. Real property.

3. Goods or inventory.

4. Other physical resources which are identified by the department.

(b) "Director" means the director of the Office of Tourism, Trade, and Economic Development.

(c) "Local government" means any county or incorporated municipality in the state.

(d) "Office" means the Office of Tourism, Trade, and Economic Development.

(e) "Project" means *an activity as defined in s. 220.03(1)(t).* ~~any activity undertaken by an eligible sponsor, as defined in subsection (2), which is designed to construct, improve, or substantially rehabilitate housing or commercial, industrial, or public resources and facilities or to improve entrepreneurial and job development opportunities for low-income persons.~~

Section 32. Subsection (7) is added to section 125.0103, Florida Statutes, to read:

125.0103 Ordinances and rules imposing price controls; findings required; procedures.—

(7) Notwithstanding any other provisions of this section, municipalities, counties, or other entity of local government may adopt and maintain in effect any law, ordinance, rule, or other measure which is adopted for the purposes of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.

Section 33. Subsection (7) is added to section 166.043, Florida Statutes, to read:

166.043 Ordinances and rules imposing price controls; findings required; procedures.—

(1)(a) Except as hereinafter provided, no county, municipality, or other entity of local government shall adopt or maintain in effect an ordinance or a rule which has the effect of imposing price controls upon a lawful business activity which is not franchised by, owned by, or under contract with, the governmental agency, unless specifically provided by general law.

(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, or port rates, rates for towing of vehicles from or immobilization of vehicles on private property, or rates for removal and storage of wrecked or disabled vehicles from an accident scene or the removal and storage of vehicles in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle.

(c) Counties must establish maximum rates which may be charged on the towing of vehicles from or immobilization of vehicles on private property, removal and storage of wrecked or disabled vehicles from an accident scene or for the removal and storage of vehicles, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle. However, if a municipality chooses to enact an ordinance establishing the maximum fees for the towing or immobilization of vehicles as described in paragraph (b), the county's ordinance established under s. 125.0103 shall not apply within such municipality.

(2) No law, ordinance, rule, or other measure which would have the effect of imposing controls on rents shall be adopted or maintained in effect except as provided herein and unless it is found and determined, as hereinafter provided, that such controls are necessary and proper to eliminate an existing housing emergency which is so grave as to constitute a serious menace to the general public.

(3) Any law, ordinance, rule, or other measure which has the effect of imposing controls on rents shall terminate and expire within 1 year and shall not be extended or renewed except by the adoption of a new measure meeting all the requirements of this section.

(4) Notwithstanding any other provisions of this section, no controls shall be imposed on rents for any accommodation used or offered for residential purposes as a seasonal or tourist unit, as a second housing unit, or on rents for dwelling units located in luxury apartment buildings. For the purposes of this section, a luxury apartment building is one wherein on January 1, 1977, the aggregate rent due on a monthly basis from all dwelling units as stated in leases or rent lists existing on that date divided by the number of dwelling units exceeds $250.

(5) No municipality, county, or other entity of local government shall adopt or maintain in effect any law, ordinance, rule, or other measure which would have the effect of imposing controls on rents unless:

(a) Such measure is duly adopted by the governing body of such entity of local government, after notice and public hearing, in accordance with all applicable provisions of the Florida and United States Constitutions, the charter or charters governing such entity of local government, this section, and any other applicable laws.

(b) Such governing body makes and recites in such measure its findings establishing the existence in fact of a housing emergency so grave as to constitute a serious menace to the general public and that such controls are necessary and proper to eliminate such grave housing emergency.

(c) Such measure is approved by the voters in such municipality, county, or other entity of local government.

(6) In any court action brought to challenge the validity of rent control imposed pursuant to the provisions of this section, the evidentiary effect of any findings or recitations required by subsection (5) shall be limited to imposing upon any party challenging the validity of such measure the burden of going forward with the evidence, and the burden of proof (that is, the risk of nonpersuasion) shall rest upon any party seeking to have the measure upheld.

(7) Notwithstanding any other provisions of this section, municipalities, counties, or other entity of local government may adopt and maintain in effect any law, ordinance, rule, or other measure which is adopted for the purposes of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.

Section 34. Paragraph (b) of subsection (1) of section 336.025, F.S., is amended to read:

336.025 County transportation system; levy of local option fuel tax on motor fuel and diesel fuel.—

(1)

(b) In addition to other taxes allowed by law, there may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-cent, 4-cent, or 5-cent local option fuel tax upon every gallon of motor fuel sold in a county and taxed under the provisions of part I of chapter 206. The tax shall be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum.

1. The tax shall be levied before July 1, to be effective January 1 of the following year. However, levies of the tax which were in effect on July 1, 1996, and which expire on August 31 of any year may be reimposed effective September 1 of the year of expiration.

2. The county may, prior to levy of the tax, establish by interlocal agreement with one or more municipalities located therein, representing a majority of the population of the incorporated area within the county, a distribution formula for dividing the entire proceeds of the tax among county government and all eligible municipalities within the county. If no interlocal agreement is adopted before the effective date of the tax, tax revenues shall be distributed pursuant to the provisions of subsection (4). If no interlocal agreement exists, a new interlocal agreement may be established prior to June 1 of any year pursuant to this subparagraph. However, any interlocal agreement agreed to under this subparagraph after the initial levy of the tax or change in the tax rate authorized in this section shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized by this paragraph, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution

outstanding on the date of establishment of the new interlocal agreement.

3. County and municipal governments shall utilize moneys received pursuant to this paragraph only for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan. For purposes of this paragraph, expenditures for the construction of new roads, the reconstruction or resurfacing of existing paved roads, or the paving of existing graded roads ~~when undertaken in part to relieve or mitigate existing or potential adverse environmental impacts,~~ shall be deemed to increase capacity and such projects shall be included in the capital improvements element of an adopted comprehensive plan. Expenditures for purposes of this paragraph shall not include routine maintenance of roads.

Section 35. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2, through

Page 3, line 29
remove from the title of the bill: all of said lines

and insert in lieu thereof:
An act relating to economic development; amending s. 212.08, F.S.; revising certain procedures and conditions relating to the sales tax exemption for enterprise-zone building materials and business property; extending the community contribution tax credit provisions of the enterprise zone program to the state sales tax; amending s. 212.096, F.S.; redefining the terms "eligible business" and "new employee"; defining the terms "jobs" and "new job has been created"; revising the computation procedures of the enterprise-zone jobs credit against sales tax; amending s. 212.098, F.S.; redefining the term "eligible business"; defining the term "qualified area"; deleting provisions ranking qualified counties; limiting the amount of tax credits available during any one calendar year; providing for reduction or waiver of certain financial match requirements in rural areas by Rural Economic Development Initiative agencies and organizations; amending s. 220.03, F.S.; redefining the terms "new employee" and "project"; defining the terms "new job has been created" and "jobs"; amending s. 220.181, F.S.; revising the computation procedures of the enterprise-zone job credit against the corporate income tax; amending s. 220.183, F.S.; revising the eligibility, application, and administrative requirements of the community contribution corporate income tax credit program; amending s. 288.018, F.S.; revising administration and uses of the Regional Rural Development Grants Program; creating s. 288.019, F.S.; providing for a review and evaluation process of rural grants by Rural Economic Development Initiative agencies; amending s. 288.065, F.S.; expanding the scope of the Rural Community Revolving Loan Fund Program; amending s. 288.0656, F.S.; revising the membership of the Rural Economic Development Initiative; requiring an annual designation of staff representatives; amending s. 288.1088, F.S.; expanding eligible uses of the Quick Action Closing Fund; amending s. 288.9015, F.S.; revising the duties of Enterprise Florida, Inc.; amending s. 290.004, F.S.; defining the term "rural enterprise zone"; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in Sarasota County; providing requirements with respect thereto; amending s. 290.00555, F.S.; removing the December 31, 1999, deadline for creation of satellite enterprise zones by certain municipalities and authorizing creation of such zones effective retroactively to that date; providing duties of the Office of Tourism, Trade, and Economic Development; providing an application deadline for businesses in such zones eligible for certain sales and use tax incentives; amending s. 290.0065, F.S.; providing for certain rural enterprise zones; conforming agency references to changes in program administration; authorizing the Office of Tourism, Trade, and Economic Development in consultation with Enterprise Florida, Inc., to develop guidelines relating to the designation of enterprise zones; creating s. 290.00676, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to amend the boundaries of a rural enterprise zone and providing requirements with respect thereto; creating s. 290.00677, F.S.; modifying the employee residency requirements for the enterprise-zone job credit against the sales tax and corporate income tax if the business is located in a rural enterprise zone; creating s. 290.00694, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate rural champion communities as enterprise zones; providing requirements with respect thereto; amending s. 290.007, F.S.; revising the list of enterprise zone incentives to reflect the creation of a community contribution sales tax credit program; amending s. 290.048, F.S.; authorizing the Department of Community Affairs to establish advisory committees and solicit participation with respect to administering the Florida Small Cities Community Development Block Grant Program; repealing s. 290.049, F.S., relating to the Community Development Block Grant Advisory Council; repealing s. 370.28(4), F.S., which provides conditions for tax incentives in enterprise zone net–ban communities; amending s. 380.06, F.S.; providing for guidelines and standards for an area designated by the Governor as a rural area of critical economic concern; deleting a requirement that the Administration Commission adopt certain guidelines and standards by rule; amending s. 420.503, F.S.; redefining the terms "elderly" and "housing for the elderly" under the Florida Housing Finance Act; amending s. 420.507, F.S.; authorizing the Florida Housing Finance Corporation to create a recognition program to support affordable housing; amending s. 420.5088, F.S.; revising authority and eligibility criteria for certain loans made by the corporation under the Florida Homeownership Assistance Program; amending s. 420.5092, F.S.; increasing the amount of revenue bonds that may be issued under the Florida Affordable Housing Guarantee Program; amending s. 624.5105, F.S.; conforming definitions; revising eligibility and administrative requirements; amending s. 125.0103, F.S.; providing that a local government may enact an ordinance for the purpose of increasing the supply of affordable housing using land use mechanisms; amending s. 166.043, F.S.; providing that a local government may enact an ordinance for the purpose of increasing the supply of affordable housing using land use mechanisms; amending s. 336.025, F.S.; allowing an additional use for local option fuel tax proceeds; providing effective dates.

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

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

HB 163—A bill to be entitled An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing that publicly owned facilities within certain municipalities at which a collegiate football team is based may use the proceeds of sales taxes generated by the facility for the purpose of renovating the facility; providing for reporting and remitting of such taxes; providing an effective date.

—was read the second time by title.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 531099)

Amendment 1 (with title amendment)—On page 1, line 14

insert a new Section 1:

Section 1. Subparagraph 4. of paragraph (a) of subsection (2) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

4. No tax shall be levied on admissions to the National Football League championship game, on admissions to any ~~semifinal game or~~ championship game of a national collegiate tournament~~, or~~ on admissions to a Major League Baseball all-star game~~.~~ *, on admissions to tournament games that are played for the purposes of qualifying for the championship game of a national collegiate tournament, or on admissions to tournament games that are played in any collegiate athletic end-of-season tournament that determines a collegiate athletic conference champion.*

And the title is amended as follows:

On page 1, line 3

insert after the semi-colon:
amending s. 212.04, F.S.; providing that admissions to games played for the purpose of qualifying for championship games of national or conference athletic championships are exempt from such tax;

Rep. Prieguez moved the adoption of the amendment.

The Fiscal Responsibility Council offered the following:

(Amendment Bar Code: 540809)

Substitute Amendment 1 (with title amendment)—On page 1, line 13,

insert:

Section 1. Paragraph (a) of subsection (2) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(2)

(a)1. No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Children and Family Services, and state correctional institutions when only student, faculty, or inmate talent is used. However, this exemption shall not apply to admission to athletic events sponsored by an institution within the State University System, and the proceeds of the tax collected on such admissions shall be retained and used by each institution to support women's athletics as provided in s. 240.533(3)(c).

2.a. No tax shall be levied on dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations. To receive this exemption, the sponsoring organization must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954, as amended.

b. No tax shall be levied on admission charges to an event sponsored by a governmental entity, sports authority, or sports commission when held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility and when 100 percent of the risk of success or failure lies with the sponsor of the event and 100 percent of the funds at risk for the event belong to the sponsor, and student or faculty talent is not exclusively used. As used in this sub-subparagraph, the terms "sports authority" and "sports commission" mean a nonprofit organization that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and that contracts with a county or municipal government for the purpose of promoting and attracting sports-tourism events to the community with which it contracts.

3. No tax shall be levied on an admission paid by a student, or on the student's behalf, to any required place of sport or recreation if the student's participation in the sport or recreational activity is required as a part of a program or activity sponsored by, and under the jurisdiction of, the student's educational institution, provided his or her attendance is as a participant and not as a spectator.

4. No tax shall be levied on admissions to the National Football League championship game, on admissions to any ~~semifinal game or~~ championship game of a national collegiate tournament, ~~or~~ on admissions to a Major League Baseball all-star game*, on admissions to tournament games that are played for the purposes of qualifying for the championship game of a national collegiate tournament, or on admissions to tournament games that are played in any collegiate athletic end-of-season tournament that determines a collegiate athletic conference champion*.

5. A participation fee or sponsorship fee imposed by a governmental entity as described in s. 212.08(6) for an athletic or recreational program is exempt when the governmental entity by itself, or in conjunction with an organization exempt under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, sponsors, administers, plans, supervises, directs, and controls the athletic or recreational program.

6. Also exempt from the tax imposed by this section to the extent provided in this subparagraph are admissions to live theater, live opera, or live ballet productions in this state which are sponsored by an organization that has received a determination from the Internal Revenue Service that the organization is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, if the organization actively participates in planning and conducting the event, is responsible for the safety and success of the event, is organized for the purpose of sponsoring live theater, live opera, or live ballet productions in this state, has more than 10,000 subscribing members and has among the stated purposes in its charter the promotion of arts education in the communities which it serves, and will receive at least 20 percent of the net profits, if any, of the events which the organization sponsors and will bear the risk of at least 20 percent of the losses, if any, from the events which it sponsors if the organization employs other persons as agents to provide services in connection with a sponsored event. Prior to March 1 of each year, such organization may apply to the department for a certificate of exemption for admissions to such events sponsored in this state by the organization during the immediately following state fiscal year. The application shall state the total dollar amount of admissions receipts collected by the organization or its agents from such events in this state sponsored by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Such organization shall receive the exemption only to the extent of $1.5 million multiplied by the ratio that such receipts bear to the total of such receipts of all organizations applying for the exemption in such year; however, in no event shall such exemption granted to any organization exceed 6 percent of such admissions receipts collected by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Each organization receiving the exemption shall report each month to the department the total admissions receipts collected from such events sponsored by the organization during the preceding month and shall remit to the department an amount equal to 6 percent of such receipts reduced by any amount remaining under the exemption. Tickets for such events sold by such organizations shall not reflect the tax otherwise imposed under this section.

7. Also exempt from the tax imposed by this section are entry fees for participation in freshwater fishing tournaments.

8. Also exempt from the tax imposed by this section are participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to such event.

9. No tax shall be levied on admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association.

Section 2. Effective July 1, 2003, paragraph (a) of subsection (2) of section 212.04, Florida Statutes, as amended by chapter 2000-345, Laws of Florida, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(2)

(a)1. No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Children and Family Services, and state correctional institutions when only student, faculty, or inmate talent is used. However, this exemption shall not apply to admission to athletic events sponsored by an institution within the State University System, and the proceeds of the tax collected on such admissions shall be retained and used by each institution to support women's athletics as provided in s. 240.533(3)(c).

2. No tax shall be levied on dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations. To receive

this exemption, the sponsoring organization must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954, as amended.

3. No tax shall be levied on an admission paid by a student, or on the student's behalf, to any required place of sport or recreation if the student's participation in the sport or recreational activity is required as a part of a program or activity sponsored by, and under the jurisdiction of, the student's educational institution, provided his or her attendance is as a participant and not as a spectator.

4. No tax shall be levied on admissions to the National Football League championship game, on admissions to any ~~semifinal game or~~ championship game of a national collegiate tournament, ~~or~~ on admissions to a Major League Baseball all-star game*, on admissions to tournament games that are played for the purposes of qualifying for the championship game of a national collegiate tournament, or on admissions to tournament games that are played in any collegiate athletic end-of-season tournament that determines a collegiate athletic conference champion*.

5. A participation fee or sponsorship fee imposed by a governmental entity as described in s. 212.08(6) for an athletic or recreational program is exempt when the governmental entity by itself, or in conjunction with an organization exempt under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, sponsors, administers, plans, supervises, directs, and controls the athletic or recreational program.

6. Also exempt from the tax imposed by this section to the extent provided in this subparagraph are admissions to live theater, live opera, or live ballet productions in this state which are sponsored by an organization that has received a determination from the Internal Revenue Service that the organization is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, if the organization actively participates in planning and conducting the event, is responsible for the safety and success of the event, is organized for the purpose of sponsoring live theater, live opera, or live ballet productions in this state, has more than 10,000 subscribing members and has among the stated purposes in its charter the promotion of arts education in the communities which it serves, and will receive at least 20 percent of the net profits, if any, of the events which the organization sponsors and will bear the risk of at least 20 percent of the losses, if any, from the events which it sponsors if the organization employs other persons as agents to provide services in connection with a sponsored event. Prior to March 1 of each year, such organization may apply to the department for a certificate of exemption for admissions to such events sponsored in this state by the organization during the immediately following state fiscal year. The application shall state the total dollar amount of admissions receipts collected by the organization or its agents from such events in this state sponsored by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Such organization shall receive the exemption only to the extent of $1.5 million multiplied by the ratio that such receipts bear to the total of such receipts of all organizations applying for the exemption in such year; however, in no event shall such exemption granted to any organization exceed 6 percent of such admissions receipts collected by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Each organization receiving the exemption shall report each month to the department the total admissions receipts collected from such events sponsored by the organization during the preceding month and shall remit to the department an amount equal to 6 percent of such receipts reduced by any amount remaining under the exemption. Tickets for such events sold by such organizations shall not reflect the tax otherwise imposed under this section.

7. Also exempt from the tax imposed by this section are entry fees for participation in freshwater fishing tournaments.

8. Also exempt from the tax imposed by this section are participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to such event.

9. No tax shall be levied on admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association.

And the title is amended as follows:

On page 1, line 3, after "transactions;"

insert: amending s. 212.04, F.S.; providing an exemption for admissions to tournament games played for the purpose of qualifying for a national collegiate championship game or played in a collegiate athletic conference championship tournament;

Rep. Prieguez moved the adoption of the substitute amendment, which was adopted.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 675433)

Amendment 2—On page 2, between lines 13-14 of the bill

insert:

3. This paragraph shall expire on January 1, 2032.

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

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 160679)

Amendment 3—On page 2, lines 2-3
remove from the bill: all of said lines

and insert in lieu thereof:
facility and shall use these tax proceeds for the purpose of renovating, expanding, and modernizing the facility. For purposes of this

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

The Fiscal Responsibility Council offered the following:

(Amendment Bar Code: 560407)

Amendment 4 (with title amendment)—On page 2, line 14,
remove from the bill: This

and insert in lieu thereof: Except as otherwise provided herein, this

And the title is amended as follows:

On page 1, line 10,
remove from the title of the bill: all of said line

and insert in lieu thereof: providing effective dates.

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

Representative(s) Prieguez and Maygarden offered the following:

(Amendment Bar Code: 114107)

Amendment 5—On page 2, between lines 13-14 of the bill

insert:

3. In the event that a property or facility retaining sales taxes pursuant to this act is transferred, or title is otherwise conveyed to another party, the amount of sales taxes retained shall be reimbursed in full to the state.

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

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

HB 613 was taken up. On motion by Rep. Ross, the rules were waived and SB 428 was substituted for HB 613. Under Rule 5.15, the House bill was laid on the table and—

SB 428—A bill to be entitled An act relating to building construction; amending s. 95.11, F.S.; providing alternative applications to a statute of limitations for certain legal or equitable actions for actions to enforce claims against payment bonds; revising a statute of limitations for actions to enforce claims against certain payment bonds; amending s. 255.05, F.S.; clarifying criteria for performance of bonds; revising a provision relating to notice of nonpayment for certain labor, materials, or supplies; amending s. 713.01, F.S.; revising certain definitions; amending s. 713.02, F.S.; clarifying a criterion for a proscription against certain liens; amending s. 713.13, F.S.; deleting authorization for certain fax numbers in notices of commencement; amending s. 713.18, F.S.; revising provisions relating to manner of serving notices and certain instruments; amending s. 713.23, F.S.; including certain unpaid finance charges under a written notice of nonpayment of a payment bond; amending s. 713.245, F.S.; providing additional bond criteria for coextension of a surety's duty to pay lienors with a contractor's duty to pay; amending ss. 725.06, 725.08, F.S.; revising indemnification and hold harmless requirements for construction contracts and design professional contracts; repealing s. 713.18(3), F.S., relating to service of certain notices by facsimile transmission; providing effective dates. amending s. 489.13, F.S.; providing for issuance of a notice of noncompliance, imposition of an administrative fine, and assessment of reasonable investigative and legal costs of prosecution for unlicensed contracting; specifying that such remedies are not exclusive; providing for uses of fine proceeds; requiring the Department of Business and Professional Regulation to create a web page on its Internet website dedicated to listing known information concerning unlicensed contractors; providing an effective date.

—was read the second time by title.

Representative(s) Mahon offered the following:

(Amendment Bar Code: 785035)

Amendment 1 (with title amendment)—On page 17, lines 1-28, remove from the bill: all of said lines,

and insert in lieu thereof:

Section 10. Section 725.06, Florida Statutes, is amended to read:

725.06 Construction contracts; limitation on indemnification.—

(1) Any portion of any agreement or contract for or in connection with, or any guarantee of or in connection with, any construction, alteration, repair, or demolition of a building, structure, appurtenance, or appliance, including moving and excavating associated therewith, between an owner of real property and an architect, engineer, general contractor, subcontractor, sub-subcontractor, or materialman or any combination thereof wherein any party referred to herein promises to indemnify or hold harmless the other party to the agreement, contract, or guarantee for liability for damages to persons or property caused in whole or in part by any act, omission, or default of the indemnitee arising from the contract or its performance, shall be void and unenforceable unless the contract contains a monetary limitation on the extent of the indemnification that bears a reasonable commercial relationship to the contract and is part of the project specifications or bid documents, if any. Notwithstanding the foregoing, the monetary limitation on the extent of the indemnification provided to the owner of real property by any party in privity of contract with such owner shall not be less than $1 million per occurrence, unless otherwise agreed by the parties. Indemnification provisions in any such agreements, contracts, or guarantees may not require that the indemnitor indemnify the indemnitee for damages to persons or property caused in whole or in part by any act, omission, or default of a party other than:

(a) The indemnitor;

(b) Any of the indemnitor's contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees; or

(c) The indemnitee or its officers, directors, agents, or employees. However, such indemnification shall not include claims of, or damages resulting from, gross negligence, or willful, wanton or intentional misconduct of the indemnitee or its officers, directors, agents or employees, or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the indemnitor or any of the indemnitor's contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees.

(2)~~(1)~~ A construction contract *for a public agency or in connection with a public agency's project* may require a party to that contract to indemnify and hold harmless the other party to the contract, their officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the indemnifying party and persons employed or utilized by the indemnifying party in the performance of the construction contract.

(3)~~(2)~~ Except as specifically provided in subsection *(2)* ~~(1)~~, a construction contract *for a public agency or in connection with a public agency's project* may not require one party to indemnify*, defend, or hold harmless* the other party, its employees, officers, directors, or agents from any liability, damage, loss, claim, action, or proceeding, and any such contract provision is void as against public policy of this state.

(4) This section does not affect any contracts, agreements, or guarantees entered into before the effective date of this section or any renewals thereof.

Section 11. Subsection (2) of section 725.08, Florida Statutes, is amended to read:

725.08 Design professional contracts; limitation in indemnification.—

(2) Except as specifically provided in subsection (1), a professional services contract *entered into with a public agency* may not require that the design professional defend, indemnify, or hold harmless the agency, its employees, officers, directors, or agents from any liability, damage, loss, claim, action, or proceeding, and any such contract provision *shall* ~~will~~ be void as against the public policy of this state.

And the title is amended as follows:

On page 1, lines 27-30,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: amending s. 725.06, F.S.; revising indemnification and hold harmless restrictions for certain construction agreements, contracts, or guarantees; providing application; amending s. 725.08, F.S.; revising indemnification and hold harmless restrictions for certain professional services contracts; repealing s. 713.18(3),

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

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

HB 1607—A bill to be entitled An act relating to rulemaking authority of the Department of Insurance; codifying department rules and granting the department additional rulemaking authority; amending s. 112.215, F.S.; providing for self-funding of administrative costs of deferred compensation; amending ss. 624.3161 and 626.171, F.S.; authorizing the department to adopt certain rules; amending s. 626.748, F.S.; specifying additional recordkeeping requirements for agents; amending s. 626.9541, F.S.; providing additional criteria for an unfair discrimination prohibition; creating s. 626.9552, F.S.; specifying requirements for single interest insurance; amending s. 627.062, F.S.; clarifying certain information reporting requirements; amending s. 627.0625, F.S.; providing an additional requirement for commercial motor vehicle insurance policies; authorizing the department to adopt rules; creating s. 627.385, F.S.; specifying conduct prohibitions for residual market board members; creating s. 627.4065, F.S.; requiring certain notice provisions in health insurance policies; providing for an insured's right to return a policy; amending s. 627.7276, F.S.; revising a limited coverage notice requirement; creating s. 627.795, F.S.;

providing title insurance requirements for real estate closings; amending s. 627.918, F.S.; requiring the department to adopt certain reporting format standards; amending s. 627.9408, F.S.; authorizing the department to adopt long-term care insurance regulation rules; amending s. 641.2342, F.S.; providing for financial examination of contract providers by the department; amending s. 641.31, F.S.; revising a reimbursement for covered services and supplies provision; amending s. 641.3108, F.S.; prohibiting health maintenance organization cancellation of certain contracts during a contract period; providing exceptions; providing requirements for nonrenewal of subscriber group contracts; providing an effective date.

—was read the second time by title.

The Committee on Insurance offered the following:

(Amendment Bar Code: 823559)

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

and insert in lieu thereof:

Section 1. Subsection (6) is added to section 624.3161, Florida Statutes, to read:

624.3161 Market conduct examinations.—

(6) The department shall adopt rules as necessary to effectuate the market conduct examination process, to assure compliance by the person examined with the applicable provisions of the Insurance Code. Such rules shall not exceed the authority of the statutes involved in the market conduct examination.

Section 2. Subsection (8) is added to section 626.171, Florida Statutes, to read:

626.171 Application for license.—

(8) The department shall adopt rules to effectuate the license application process, including photo identification, background checks and credit reports, prelicensing courses, the impact of criminal and law enforcement history, and other relevant information in an effort to determine an applicant's fitness and trustworthiness to engage in the business of insurance.

Section 3. Paragraph (o) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(o) Illegal dealings in premiums; excess or reduced charges for insurance.—

1. Knowingly collecting any sum as a premium or charge for insurance, which is not then provided, or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy issued by an insurer as permitted by this code.

2. Knowingly collecting as a premium or charge for insurance any sum in excess of or less than the premium or charge applicable to such insurance, in accordance with the applicable classifications and rates as filed with and approved by the department, and as specified in the policy; or, in cases when classifications, premiums, or rates are not required by this code to be so filed and approved, premiums and charges in excess of or less than those specified in the policy and as fixed by the insurer. This provision shall not be deemed to prohibit the charging and collection, by surplus lines agents licensed under part VIII of this chapter, of the amount of applicable state and federal taxes, or fees as authorized by s. 626.916(4), in addition to the premium required by the insurer or the charging and collection, by licensed agents, of the exact amount of any discount or other such fee charged by a credit card facility in connection with the use of a credit card, as authorized by subparagraph (q)3., in addition to the premium required by the insurer. This subparagraph shall not be construed to prohibit collection of a premium for a universal life or a variable or indeterminate value insurance policy made in accordance with the terms of the contract.

3.a. Imposing or requesting an additional premium for a policy of motor vehicle liability, personal injury protection, medical payment, or collision insurance or any combination thereof or refusing to renew the policy solely because the insured was involved in a motor vehicle accident unless the insurer's file contains information from which the insurer in good faith determines that the insured was substantially at fault in the accident.

b. An insurer which imposes and collects such a surcharge or which refuses to renew such policy shall, in conjunction with the notice of premium due or notice of nonrenewal, notify the named insured that he or she is entitled to reimbursement of such amount or renewal of the policy under the conditions listed below and will subsequently reimburse him or her or renew the policy, if the named insured demonstrates that the operator involved in the accident was:

(I) Lawfully parked;

(II) Reimbursed by, or on behalf of, a person responsible for the accident or has a judgment against such person;

(III) Struck in the rear by another vehicle headed in the same direction and was not convicted of a moving traffic violation in connection with the accident;

(IV) Hit by a "hit-and-run" driver, if the accident was reported to the proper authorities within 24 hours after discovering the accident;

(V) Not convicted of a moving traffic violation in connection with the accident, but the operator of the other automobile involved in such accident was convicted of a moving traffic violation;

(VI) Finally adjudicated not to be liable by a court of competent jurisdiction;

(VII) In receipt of a traffic citation which was dismissed or nolle prossed; or

(VIII) Not at fault as evidenced by a written statement from the insured establishing facts demonstrating lack of fault which are not rebutted by information in the insurer's file from which the insurer in good faith determines that the insured was substantially at fault.

c. In addition to the other provisions of this subparagraph, an insurer may not fail to renew a policy if the insured has had only one accident in which he or she was at fault within the current 3-year period. However, an insurer may nonrenew a policy for reasons other than accidents in accordance with s. 627.728. This subparagraph does not prohibit nonrenewal of a policy under which the insured has had three or more accidents, regardless of fault, during the most recent 3-year period.

4. Imposing or requesting an additional premium for, or refusing to renew, a policy for motor vehicle insurance solely because the insured committed a noncriminal traffic infraction as described in s. 318.14 unless the infraction is:

a. A second infraction committed within an 18-month period, or a third or subsequent infraction committed within a 36-month period.

b. A violation of s. 316.183, when such violation is a result of exceeding the lawful speed limit by more than 15 miles per hour.

5. Upon the request of the insured, the insurer and licensed agent shall supply to the insured the complete proof of fault or other criteria which justifies the additional charge or cancellation.

6. No insurer shall impose or request an additional premium for motor vehicle insurance, cancel or refuse to issue a policy, or refuse to renew a policy because the insured or the applicant is a handicapped or physically disabled person, so long as such handicap or physical

disability does not substantially impair such person's mechanically assisted driving ability.

7. No insurer may cancel or otherwise terminate any insurance contract or coverage, or require execution of a consent to rate endorsement, during the stated policy term for the purpose of offering to issue, or issuing, a similar or identical contract or coverage to the same insured with the same exposure at a higher premium rate or continuing an existing contract or coverage with the same exposure at an increased premium.

8. No insurer may issue a nonrenewal notice on any insurance contract or coverage, or require execution of a consent to rate endorsement, for the purpose of offering to issue, or issuing, a similar or identical contract or coverage to the same insured at a higher premium rate or continuing an existing contract or coverage at an increased premium without meeting any applicable notice requirements.

9. No insurer shall, with respect to premiums charged for motor vehicle insurance, unfairly discriminate solely on the basis of age, sex, marital status, *location of the risk, accidents more than 3 years old,* or scholastic achievement.

10. Imposing or requesting an additional premium for motor vehicle comprehensive or uninsured motorist coverage solely because the insured was involved in a motor vehicle accident or was convicted of a moving traffic violation.

11. No insurer shall cancel or issue a nonrenewal notice on any insurance policy or contract without complying with any applicable cancellation or nonrenewal provision required under the Florida Insurance Code.

12. No insurer shall impose or request an additional premium, cancel a policy, or issue a nonrenewal notice on any insurance policy or contract because of any traffic infraction when adjudication has been withheld and no points have been assessed pursuant to s. 318.14(9) and (10). However, this subparagraph does not apply to traffic infractions involving accidents in which the insurer has incurred a loss due to the fault of the insured.

Section 4. Paragraph (a) of subsection (2) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(2) As to all such classes of insurance:

(a) Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on such classes of insurance written in this state. *Copies* ~~A copy~~ of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge schedules, and changes thereto, shall be filed with the department under one of the following procedures:

1. If the filing is made at least 90 days before the proposed effective date and the filing is not implemented during the department's review of the filing and any proceeding and judicial review, then such filing shall be considered a "file and use" filing. In such case, the department shall finalize its review by issuance of a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing. The notice of intent to approve and the notice of intent to disapprove constitute agency action for purposes of the Administrative Procedure Act. Requests for supporting information, requests for mathematical or mechanical corrections, or notification to the insurer by the department of its preliminary findings shall not toll the 90-day period during any such proceedings and subsequent judicial review. The rate shall be deemed approved if the department does not issue a notice of intent to approve or a notice of intent to disapprove within 90 days after receipt of the filing.

2. If the filing is not made in accordance with the provisions of subparagraph 1., such filing shall be made as soon as practicable, but no later than 30 days after the effective date, and shall be considered a "use and file" filing. An insurer making a "use and file" filing is potentially subject to an order by the department to return to policyholders portions of rates found to be excessive, as provided in paragraph (h).

Section 5. Subsection (4) is added to Section 627.0625, Florida Statutes, to read:

627.0625 Commercial property and casualty risk management plans.—

(4) Commercial motor vehicle policies that are issued to satisfy mandatory financial responsibility requirements of a state or local government must provide first dollar coverage to third-party claimants without a deductible. With respect to such policies, the department may adopt rules necessary to assure that claims are administered fairly as required by law.

Section 6. Subsection (8) of section 627.0651, Florida Statutes, is amended to read:

627.0651 Making and use of rates for motor vehicle insurance.—

(8) Rates are not unfairly discriminatory if averaged broadly among members of a group; nor are rates unfairly discriminatory even though they are lower than rates for nonmembers of the group. However, such rates are unfairly discriminatory if they are not actuarially measurable and credible and sufficiently related to actual or expected loss and expense experience of the group so as to assure that nonmembers of the group are not unfairly discriminated against. Use of a single United States Postal Service zip code as a rating territory shall be deemed unfairly discriminatory. *An insurer may not impose a surcharge or discount for liability coverages based on the type of vehicle without providing acceptable actuarial justification.*

Section 7. Section 627.385, Florida Statutes, is created to read:

627.385 Conduct of residual market board members.—

(1)(a) For various insurance coverages, a residual market has been created by legislation to provide a market of last resort for individuals unable to secure coverage in the voluntary market.

(b) Each residual market's enabling legislation calls for the establishment of a board of governors or directors that operates subject to a plan of operation. The board, in carrying out its obligations, must engage in business transactions in order to provide and administer the required coverage and maintain adequate funds to support the plan. In order for the board to fully execute its responsibilities required by law, conflict of interest or inappropriate activity by board members, or the appearance thereof, with regard to member insurers or policyholders of the residual market mechanism must be avoided. The Legislature has determined that the provisions set forth in subsection (2) are necessary to protect the public interest by ensuring fair, reasonable, and beneficial board practice and activity.

(c) This section applies to the Florida Medical Malpractice Joint Underwriting Association, the Florida Automobile Joint Underwriting Association, the Florida Workers' Compensation Joint Underwriting Association, the Florida Comprehensive Health Association, the Florida Windstorm Underwriting Association, the Florida Property and Casualty Joint Underwriting Association, the Florida Residential Property and Casualty Joint Underwriting Association, and the board members thereof.

(2) To ensure that the board is free from potential conflict or inappropriate behavior the following are adopted in the plan of operation of the subject residual market in this state.

(a) A board member may not act as a servicing carrier or administering entity for the subject plan, other than a claim adjustment contract open to all members of the plan.

(b) A board member or board member representative may not use his or her position to foster or facilitate any special pecuniary gain for himself or herself, his or her member company, or any other entity in which the board member or board member representative or the member company has a substantial financial interest, except as otherwise provided in paragraph (a).

(c) A board member or board member representative may not use his or her position on the board to secure or promote any business relationship from which he or she may derive a financial gain.

(d) A board member or designee may not receive any gift or gratuity, except as provided in s. 112.3248, other than meals, while acting in his or her capacity as a board member.

(3) Board members and board member representatives shall maintain reasonable board expenses based on state travel policy as set forth in s. 112.061. The board shall develop a detailed policy regarding board member travel, which policy must be based on s. 112.061 and is subject to the approval of the department.

Section 8. Section 627.4065, Florida Statutes, is created to read:

627.4065 Insured's right to return policy; notice.—A health insurance policy issued or issued for delivery in this state must have printed or stamped thereon or attached thereto a notice in a prominent place stating in substance that the policyholder may return the policy to the insurer within 10 days after its delivery and may have the premium paid refunded if, after examination of the policy or contract, the policyholder is not satisfied with it for any reason. The notice must provide that if the policyholder, pursuant to such notice, returns the policy or contract to the insurer at its home office or branch office or to the agent through whom it was purchased, it is considered void from the beginning and the parties are in the same position as if no policy or contract had been issued. This section does not apply to group policies, single premium nonrenewable policies, or travel accident policies.

Section 9. *Section 627.41345 Certificate of insurance.—An insurer or agent may not issue or sign a certificate of insurance that contains terms or conditions that differ from those in the policy under which the certificate of insurance is issued. In the event of a conflict, the terms of the policy under which the certificate of insurance is issued shall control.*

Section 10. Subsection (9) is added to section 627.7015, Florida Statutes, to read:

627.7015 Alternative procedure for resolution of disputed property insurance claims.—

(9) For purposes of this section, the term "claim" refers to any dispute between an insurer and an insured relating to a material issue of fact other than a dispute:

(a) With respect to which the insurer has a reasonable basis to suspect fraud;

(b) Where, based on agreed-upon facts as to the cause of loss, there is no coverage under the policy;

(c) With respect to which the insurer has a reasonable basis to believe that the claimant has intentionally made a material misrepresentation of fact which is relevant to the claim, and the entire request for payment of a loss has been denied on the basis of the material misrepresentation; or

(d) Where the amount in controversy is less than $500, unless the parties agree to mediate a dispute involving a lesser amount.

Section 11. Section 627.7276, Florida Statutes, is amended to read:

627.7276 Notice of limited coverage.—

(1) *The following notice of limited coverage shall* ~~An automobile policy that does not contain coverage for bodily injury and property damage must~~ be clearly stamped or printed *on any motor vehicle insurance policy that provides coverage only for first-party damage to the insured vehicle, but does not provide coverage for bodily injury liability, property damage liability, or personal injury protection* ~~to the effect that such coverage is not included in the policy in the following manner~~:

"THIS POLICY DOES NOT PROVIDE BODILY INJURY *LIABILITY,* ~~AND~~ PROPERTY DAMAGE LIABILITY, *OR PERSONAL INJURY PROTECTION* INSURANCE OR ANY OTHER COVERAGE FOR WHICH A SPECIFIC PREMIUM CHARGE IS NOT MADE, AND DOES NOT COMPLY WITH ANY FINANCIAL RESPONSIBILITY LAW *OR WITH THE FLORIDA MOTOR VEHICLE NO-FAULT LAW*."

(2) This legend must appear on the policy declaration page ~~and on the filing back of the policy~~ and be printed in a contrasting color from that used on the policy and in type larger than the largest type used in the text thereof, as an overprint or by a rubber stamp impression.

Section 12. Section 627.795, Florida Statutes, is created to read:

627.795 Policy exceptions.—

(1) A title insurance commitment must be issued on all real estate closing transactions when a title insurance policy is to be issued, except for multiple conveyances on the same property such as timesharing.

(2) A gap exception may not be deleted on a commitment until the time of closing.

Section 13. Section 626.9552, Florida Statutes, is created to read:

626.9552 Single interest insurance.—

(1) When single interest insurance is written at the expense of the purchaser or borrower in connection with a finance or loan transaction, a clear and concise statement must be furnished the purchaser or borrower advising the purchaser or borrower that the insurance effected is solely for the interest of the financing entity, and that no protection thereunder exists for the benefit of the purchaser or borrower. When single interest insurance is written, no effort may be made by the insurer to recover the amount of any payment from the borrower. Single interest insurance policies must be clearly stamped or printed on the declarations page, "Single Interest Only——No Subrogation." Single interest insurance is to be placed only after it has been determined that no other kind of insurance can be placed on the risk, except with the consent of the purchaser or borrower. Single interest may be written in cases of inland marine installment sales floater policies. If insurance cannot be obtained for the dual protection of the purchaser or borrower, and the seller or lender or financing entity for all the coverages contemplated, or if obtained, is canceled by the insurer before expiration, the seller or lender or financing entity may obtain insurance to protect his or her interest in the motor vehicle or other personal property, and the purchaser or borrower may be required to pay the cost thereof. In such event the seller or lender or financing entity shall promptly notify the purchaser or borrower that such insurance cannot be obtained, or has been canceled, and credit to the purchaser or borrower the difference between the amount charged for dual protection insurance and the actual cost of such single interest insurance, less, in the event of cancellation, the earned premium on the dual interest insurance for the period it was in force. If the purchaser or borrower procures acceptable dual interest insurance within 30 days after the date of such notice and provides the seller or lender, or finance entity with evidence that the premium therefore has been paid, there is no charge to him or her for the single interest coverage. As used in this section, the term "financing entity" means a finance company, bank, or other lending institution. However, those lenders licensed under the Consumer Finance Act, chapter 516, must provide coverage issued in the name of the borrower containing the customary mortgagee or loss payee clause.

(2) If a certificate is issued under a master policy, the same coverage as provided in an individual policy will apply.

(3) The provisions of this section do not apply to title insurance as defined in s. 624.608.

Section 14. Subsection (1) of section 627.918, Florida Statutes, is amended to read:

627.918 Reporting formats.—

(1) The department shall require that the reporting provided for in this part be made on forms *adopted* ~~established~~ by the department or in a format compatible with *the department's* ~~its~~ electronic data processing equipment. *The department shall adopt by rule standards for such approval.*

Section 15. Subsection (12) of section 641.31, Florida Statutes, is amended to read:

641.31 Health maintenance contracts.—

(12) Each health maintenance contract, certificate, or member handbook shall state that emergency services and care shall be provided to subscribers in emergency situations not permitting treatment through the health maintenance organization's providers, without prior notification to and approval of the organization. *Reimbursement for covered services and supplies under this section shall be governed by the provisions of s. 641.513(5), up to the subscriber contract benefit limits.* ~~Not less than 75 percent of the reasonable charges for covered services and supplies shall be paid by the organization, up to the subscriber contract benefit limits.~~ Payment also may be subject to additional applicable copayment provisions, not to exceed $100 per claim. The health maintenance contract, certificate, or member handbook shall contain the definitions of "emergency services and care" and "emergency medical condition" as specified in s. 641.19(7) and (8), shall describe procedures for determination by the health maintenance organization of whether the services qualify for reimbursement as emergency services and care, and shall contain specific examples of what does constitute an emergency. In providing for emergency services and care as a covered service, a health maintenance organization shall be governed by s. 641.513.

Section 16. Subsection (3) of section 641.3108, Florida Statutes, is amended to read:

641.3108 Notice of cancellation of contract.—

(3) In the case of a health maintenance contract issued to an employer or person holding the contract on behalf of the subscriber group, the health maintenance organization may make the notification through the employer or group contract holder, and, if the health maintenance organization elects to take this action through the employer or group contract holder, the organization shall be deemed to have complied with the provisions of this section upon notifying the employer or group contract holder of the requirements of this section and requesting the employer or group contract holder to forward to all subscribers the notice required herein. *If a subscriber group contract is not renewed due to claim experience, the subscriber group is entitled to receive information concerning its loss ratio. If requested by a subscriber group, a detailed claim experience record may be provided at a reasonable expense. The record shall maintain subscriber confidentiality.*

Section 17. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1,
remove the entire title

and insert in lieu thereof: A bill to be entitled An act relating to the Department of Insurance; amending ss. 624.3161, 626.171, F.S.; directing the department to adopt rules relating to market conduct examinations and license applications; amending s. 626.9541, F.S.; revising provisions relating to unfair competition and deceptive practices; amending s. 627.062, F.S.; providing for filing forms for rate standards; amending s. 627.0625, F.S.; authorizing the department to adopt rules relating to third-party claimants; amending s. 627.0651, F.S.; prohibiting motor vehicle insurers from imposing a surcharge or a discount due to certain factors; creating s. 627.385, F.S.; providing rules of conduct for residual market board members; creating s. 627.4065, F.S.; providing for notice of right to return health insurance policies; creating s. 627.41345, F.S.; prohibiting an insurer or agent from issuing or signing certain certificates of insurance; providing that the terms of the policy control in case of conflict; amending s. 627.7015, F.S.; defining "claim" for purposes of alternative procedures for resolution of disputed property insurance claims; amending s. 627.7276, F.S.; providing for notice of coverage of automobile policies; creating s. 627.795, F.S.; providing guidelines for title insurance policies; creating 626.9552, F.S.; providing standards for single interest insurance; amending s. 627.918, F.S.; directing the department to adopt rules relating to reporting formats; amending s. 641.31, F.S.; specifying reimbursement for emergency services under health maintenance organization contracts; amending s. 641.3108, F.S.; requiring health maintenance organizations to provide certain information to subscriber groups whose contract is not renewed for certain reasons; providing an effective date.

Rep. Bennett moved the adoption of the amendment.

The Committee on Health Promotion offered the following:

(Amendment Bar Code: 690407)

Amendment 1 to Amendment 1 (with title amendment)—On page 6, between lines 20 and 21, of the amendment

insert:

Section 4. Section 626.9651, Florida Statutes, is created to read:

626.9651 Privacy.—The department shall adopt rules consistent with other provisions of the Insurance Code to govern the use of a consumer's nonpublic personal financial and health information. These rules shall be based on, consistent with, and not more restrictive than the National Association of Insurance Commissioners' Privacy of Consumer Financial and Health Information Regulation adopted September 26, 2000, by the National Association of Insurance Commissioners, provided, however, the rules shall permit the use and disclosure of nonpublic personal health information for scientific, medical, or public policy research in accordance with federal law. In addition, these rules shall be consistent with, and not more restrictive than, the standards contained in Title V of the Gramm-Leach-Bliley Act of 1999 (public law 106-102). Any health insurer or health maintenance organization determined by the department to be in compliance with, or to be actively undertaking compliance with, the consumer privacy protection rules promulgated by the United States Department of Health and Human Services, in conformance with the Health Insurance Portability and Affordability Act, shall be deemed in compliance with this section. This section shall become effective July 1, 2001.

And the title is amended as follows:

On page 17, line 3, of the amendment
remove:

after the semicolon insert: creating s. 626.9651, F.S.; directing the department to adopt rules to govern the use of a consumer's nonpublic personal financial and health information by health insurers and health maintenance organizations; providing standards governing the rules;

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

On motion by Rep. Alexander, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Alexander and Waters offered the following:

(Amendment Bar Code: 063893)

Amendment 2 to Amendment 1 (with title amendment)—On page 1, between lines 16 and 17 of the amendment

insert:

Section 1. Subsection (7) is added to section 631.57, Florida Statutes, to read:

631.57 Powers and duties of the association.—

(7) Notwithstanding any other provision of law, the net direct written premiums of medical malpractice insurance are not subject to assessment under this section to cover claims and administrative costs for the type of insurance defined in s. 624.604.

And the title is amended as follows:

On page 16, line 28 of the amendment

insert: amending s. 631.57, F.S.; specifying assessment liability;

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

Representative(s) Alexander offered the following:

(Amendment Bar Code: 315749)

Amendment 3 to Amendment 1 (with title amendment)—On page 1, between lines 16 and 17 of the amendment

insert: Section 1. Section 324.031, Florida Statues, is amended to read:

324.031 Manner of proving financial responsibility.—The owner or operator of a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle may prove financial responsibility by providing satisfactory evidence of holding a motor vehicle liability policy as defined in s. 324.021(8) or s. 324.151, which policy is issued by an insurance carrier which is a member of the Florida Insurance Guaranty Association. The operator or owner of any other vehicle may prove his or her financial responsibility by:

(1) Furnishing satisfactory evidence of holding a motor vehicle liability policy*, providing single limits of $100,000/300,000/50,000 or $500,000 combined limits,* as defined in ss. 324.021(8) and 324.151;

(2) Posting with the department a satisfactory bond of a surety company authorized to do business in this state, conditioned for payment of the amount specified in s. 324.021(7);

(3) Furnishing a certificate of the department showing a deposit of cash or securities in accordance with s. 324.161; or

(4) Furnishing a certificate of self-insurance issued by the department in accordance with s. 324.171.

Any person, including any firm, partnership, association, corporation, or other person, other than a natural person, electing to use the method of proof specified in subsection (2) or subsection (3) shall post a bond or deposit equal to the number of vehicles owned times $30,000, to a maximum of $120,000; in addition, any such person, other than a natural person, shall maintain insurance providing coverage in excess of limits of $10,000/20,000/10,000 or $30,000 combined single limits, and such excess insurance shall provide minimum limits of *$100,000/300,000/50,000*~~$50,000/100,000/50,000~~ or *$500,000* ~~$150,000~~ combined single limits. *The operator of any vehicle with limits of coverage in the amount of $100,000/300,000/50,000 or $500,000 combined limits shall be deemed both the common carrier operating such vehicle and the owner of such vehicle, and no other person or entity shall be responsible in damages for the operator's negligence. For purposes of this section, "operator" shall mean the driver.*

And the title is amended as follows:

On page 16, line 28 of the amendment
remove: all of said line

and insert in lieu thereof: An act relating to insurance; amending s. 324.031, F.S.; providing for establishing financial responsibility with respect to damages arising out of the operation of certain vehicles; providing definitions

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

Representative(s) Ryan, Alexander, and Waters offered the following:

(Amendment Bar Code: 852361)

Amendment 4 to Amendment 1 (with title amendment)—On page 1, between lines 16 and 17 of the amendment

insert:

Section 1. Effective July 1, 2001, paragraph (b) of subsection (2) and paragraph (c) of subsection (6) of section 627.351, Florida Statutes, are amended, and paragraph (f) is added to subsection (2) of said section, to read:

627.351 Insurance risk apportionment plans.—

(2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

(b) The department shall require all insurers holding a certificate of authority to transact property insurance on a direct basis in this state, other than joint underwriting associations and other entities formed pursuant to this section, to provide windstorm coverage to applicants from areas determined to be eligible pursuant to paragraph (c) who in good faith are entitled to, but are unable to procure, such coverage through ordinary means; or it shall adopt a reasonable plan or plans for the equitable apportionment or sharing among such insurers of windstorm coverage, which may include formation of an association for this purpose. As used in this subsection, the term "property insurance" means insurance on real or personal property, as defined in s. 624.604, including insurance for fire, industrial fire, allied lines, farmowners multiperil, homeowners' multiperil, commercial multiperil, and mobile homes, and including liability coverages on all such insurance, but excluding inland marine as defined in s. 624.607(3) and excluding vehicle insurance as defined in s. 624.605(1)(a) other than insurance on mobile homes used as permanent dwellings. The department shall adopt rules that provide a formula for the recovery and repayment of any deferred assessments.

1. For the purpose of this section, properties eligible for such windstorm coverage are defined as dwellings, buildings, and other structures, including mobile homes which are used as dwellings and which are tied down in compliance with mobile home tie-down requirements prescribed by the Department of Highway Safety and Motor Vehicles pursuant to s. 320.8325, and the contents of all such properties. An applicant or policyholder is eligible for coverage only if an offer of coverage cannot be obtained by or for the applicant or policyholder from an admitted insurer at approved rates.

2.a.(I) All insurers required to be members of such association shall participate in its writings, expenses, and losses. Surplus of the association shall be retained for the payment of claims and shall not be distributed to the member insurers. Such participation by member insurers shall be in the proportion that the net direct premiums of each member insurer written for property insurance in this state during the preceding calendar year bear to the aggregate net direct premiums for property insurance of all member insurers, as reduced by any credits for voluntary writings, in this state during the preceding calendar year. For the purposes of this subsection, the term "net direct premiums" means direct written premiums for property insurance, reduced by premium for liability coverage and for the following if included in allied lines: rain and hail on growing crops; livestock; association direct premiums booked; National Flood Insurance Program direct premiums; and similar deductions specifically authorized by the plan of operation and approved by the department. A member's participation shall begin on the first day of the calendar year following the year in which it is issued a certificate of authority to transact property insurance in the state and shall terminate 1 year after the end of the calendar year during which it no longer holds a certificate of authority to transact property insurance in the state. The commissioner, after review of annual statements, other reports, and any other statistics that the commissioner deems necessary, shall certify to the association the aggregate direct premiums written for property insurance in this state by all member insurers.

(II) The plan of operation shall provide for a board of directors *consisting of the members of the State Board of Administration, which shall oversee the operations of the association and shall carry out any other duties provided by law. The board shall appoint an advisory council consisting of an actuary, a meterorologist, an engineer, a representative of insurers, a representative of insurance agents, and three consumers who shall also be representatives of other professions and industries, to provide the board with information and advice in connection with its duties under this section. Members of the advisory council shall be eligible for per diem and travel expeses under s. 112.061. The association shall not be considered a state agency and its obligations shall not be considered obligations of the state* ~~consisting of the Insurance Consumer Advocate appointed under s. 627.0613, 1consumer~~

~~representative appointed by the Insurance Commissioner, 1 consumer representative appointed by the Governor, and 12 additional members appointed as specified in the plan of operation. One of the 12 additional members shall be elected by the domestic companies of this state on the basis of cumulative weighted voting based on the net direct premiums of domestic companies in this state. Nothing in the 1997 amendments to this paragraph terminates the existing board or the terms of any members of the board~~.

(III) The plan of operation shall provide a formula whereby a company voluntarily providing windstorm coverage in affected areas will be relieved wholly or partially from apportionment of a regular assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II).

(IV) A company which is a member of a group of companies under common management may elect to have its credits applied on a group basis, and any company or group may elect to have its credits applied to any other company or group.

(V) There shall be no credits or relief from apportionment to a company for emergency assessments collected from its policyholders under sub-sub-subparagraph d.(III).

(VI) The plan of operation may also provide for the award of credits, for a period not to exceed 3 years, from a regular assessment pursuant to sub-sub-subparagraph d.(I) or sub-sub-subparagraph d.(II) as an incentive for taking policies out of the Residential Property and Casualty Joint Underwriting Association. In order to qualify for the exemption under this sub-sub-subparagraph, the take-out plan must provide that at least 40 percent of the policies removed from the Residential Property and Casualty Joint Underwriting Association cover risks located in Dade, Broward, and Palm Beach Counties or at least 30 percent of the policies so removed cover risks located in Dade, Broward, and Palm Beach Counties and an additional 50 percent of the policies so removed cover risks located in other coastal counties, and must also provide that no more than 15 percent of the policies so removed may exclude windstorm coverage. With the approval of the department, the association may waive these geographic criteria for a take-out plan that removes at least the lesser of 100,000 Residential Property and Casualty Joint Underwriting Association policies or 15 percent of the total number of Residential Property and Casualty Joint Underwriting Association policies, provided the governing board of the Residential Property and Casualty Joint Underwriting Association certifies that the take-out plan will materially reduce the Residential Property and Casualty Joint Underwriting Association's 100-year probable maximum loss from hurricanes. With the approval of the department, the board may extend such credits for an additional year if the insurer guarantees an additional year of renewability for all policies removed from the Residential Property and Casualty Joint Underwriting Association, or for 2 additional years if the insurer guarantees 2 additional years of renewability for all policies removed from the Residential Property and Casualty Joint Underwriting Association.

b. Assessments to pay deficits in the association under this subparagraph shall be included as an appropriate factor in the making of rates as provided in s. 627.3512.

c. The Legislature finds that the potential for unlimited deficit assessments under this subparagraph may induce insurers to attempt to reduce their writings in the voluntary market, and that such actions would worsen the availability problems that the association was created to remedy. It is the intent of the Legislature that insurers remain fully responsible for paying regular assessments and collecting emergency assessments for any deficits of the association; however, it is also the intent of the Legislature to provide a means by which assessment liabilities may be amortized over a period of years.

d.(I) When the deficit incurred in a particular calendar year is 10 percent or less of the aggregate statewide direct written premium for property insurance for the prior calendar year for all member insurers, the association shall levy an assessment on member insurers in an amount equal to the deficit.

(II) When the deficit incurred in a particular calendar year exceeds 10 percent of the aggregate statewide direct written premium for property insurance for the prior calendar year for all member insurers, the association shall levy an assessment on member insurers in an amount equal to the greater of 10 percent of the deficit or 10 percent of the aggregate statewide direct written premium for property insurance for the prior calendar year for member insurers. Any remaining deficit shall be recovered through emergency assessments under sub-sub-subparagraph (III).

(III) Upon a determination by the board of directors that a deficit exceeds the amount that will be recovered through regular assessments on member insurers, pursuant to sub-sub-subparagraph (I) or sub-sub-subparagraph (II), the board shall levy, after verification by the department, emergency assessments to be collected by member insurers and by underwriting associations created pursuant to this section which write property insurance, upon issuance or renewal of property insurance policies other than National Flood Insurance policies in the year or years following levy of the regular assessments. The amount of the emergency assessment collected in a particular year shall be a uniform percentage of that year's direct written premium for property insurance for all member insurers and underwriting associations, excluding National Flood Insurance policy premiums, as annually determined by the board and verified by the department. The department shall verify the arithmetic calculations involved in the board's determination within 30 days after receipt of the information on which the determination was based. Notwithstanding any other provision of law, each member insurer and each underwriting association created pursuant to this section shall collect emergency assessments from its policyholders without such obligation being affected by any credit, limitation, exemption, or deferment. The emergency assessments so collected shall be transferred directly to the association on a periodic basis as determined by the association. The aggregate amount of emergency assessments levied under this sub-sub-subparagraph in any calendar year may not exceed the greater of 10 percent of the amount needed to cover the original deficit, plus interest, fees, commissions, required reserves, and other costs associated with financing of the original deficit, or 10 percent of the aggregate statewide direct written premium for property insurance written by member insurers and underwriting associations for the prior year, plus interest, fees, commissions, required reserves, and other costs associated with financing the original deficit. The board may pledge the proceeds of the emergency assessments under this sub-sub-subparagraph as the source of revenue for bonds, to retire any other debt incurred as a result of the deficit or events giving rise to the deficit, or in any other way that the board determines will efficiently recover the deficit. The emergency assessments under this sub-sub-subparagraph shall continue as long as any bonds issued or other indebtedness incurred with respect to a deficit for which the assessment was imposed remain outstanding, unless adequate provision has been made for the payment of such bonds or other indebtedness pursuant to the document governing such bonds or other indebtedness. Emergency assessments collected under this sub-sub-subparagraph are not part of an insurer's rates, are not premium, and are not subject to premium tax, fees, or commissions; however, failure to pay the emergency assessment shall be treated as failure to pay premium.

(IV) Each member insurer's share of the total regular assessments under sub-sub-subparagraph (I) or sub-sub-subparagraph (II) shall be in the proportion that the insurer's net direct premium for property insurance in this state, for the year preceding the assessment bears to the aggregate statewide net direct premium for property insurance of all member insurers, as reduced by any credits for voluntary writings for that year.

(V) If regular deficit assessments are made under sub-sub-subparagraph (I) or sub-sub-subparagraph (II), or by the Residential Property and Casualty Joint Underwriting Association under sub-subparagraph (6)(b)3.a. or sub-subparagraph (6)(b)3.b., the association shall levy upon the association's policyholders, as part of its next rate filing, or by a separate rate filing solely for this purpose, a market equalization surcharge in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written

premium for property insurance for member insurers for the prior calendar year. Market equalization surcharges under this sub-sub-subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

e. The governing body of any unit of local government, any residents of which are insured under the plan, may issue bonds as defined in s. 125.013 or s. 166.101 to fund an assistance program, in conjunction with the association, for the purpose of defraying deficits of the association. In order to avoid needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, any unit of local government, any residents of which are insured by the association, may provide for the payment of losses, regardless of whether or not the losses occurred within or outside of the territorial jurisdiction of the local government. Revenue bonds may not be issued until validated pursuant to chapter 75, unless a state of emergency is declared by executive order or proclamation of the Governor pursuant to s. 252.36 making such findings as are necessary to determine that it is in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of residents of this state and the protection and preservation of the economic stability of insurers operating in this state, and declaring it an essential public purpose to permit certain municipalities or counties to issue bonds as will provide relief to claimants and policyholders of the association and insurers responsible for apportionment of plan losses. Any such unit of local government may enter into such contracts with the association and with any other entity created pursuant to this subsection as are necessary to carry out this paragraph. Any bonds issued under this sub-subparagraph shall be payable from and secured by moneys received by the association from assessments under this subparagraph, and assigned and pledged to or on behalf of the unit of local government for the benefit of the holders of such bonds. The funds, credit, property, and taxing power of the state or of the unit of local government shall not be pledged for the payment of such bonds. If any of the bonds remain unsold 60 days after issuance, the department shall require all insurers subject to assessment to purchase the bonds, which shall be treated as admitted assets; each insurer shall be required to purchase that percentage of the unsold portion of the bond issue that equals the insurer's relative share of assessment liability under this subsection. An insurer shall not be required to purchase the bonds to the extent that the department determines that the purchase would endanger or impair the solvency of the insurer. The authority granted by this sub-subparagraph is additional to any bonding authority granted by subparagraph 6.

3. The plan shall also provide that any member with a surplus as to policyholders of *$25* ~~$20~~ million or less writing 25 percent or more of its total countrywide property insurance premiums in this state may petition the department, within the first 90 days of each calendar year, to qualify as a limited apportionment company. The apportionment of such a member company in any calendar year for which it is qualified shall not exceed its gross participation, which shall not be affected by the formula for voluntary writings. In no event shall a limited apportionment company be required to participate in any apportionment of losses pursuant to sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II) in the aggregate which exceeds $50 million after payment of available plan funds in any calendar year. However, a limited apportionment company shall collect from its policyholders any emergency assessment imposed under sub-sub-subparagraph 2.d.(III). The plan shall provide that, if the department determines that any regular assessment will result in an impairment of the surplus of a limited apportionment company, the department may direct that all or part of such assessment be deferred. However, there shall be no limitation or deferment of an emergency assessment to be collected from policyholders under sub-sub-subparagraph 2.d.(III).

4. The plan shall provide for the deferment, in whole or in part, of a regular assessment of a member insurer under sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II), but not for an emergency assessment collected from policyholders under sub-sub-subparagraph 2.d.(III), if, in the opinion of the commissioner, payment of such regular assessment would endanger or impair the solvency of the member insurer. In the event a regular assessment against a member insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in sub-sub-subparagraph 2.d.(I) or sub-sub-subparagraph 2.d.(II).

5.a. The plan of operation may include deductibles and rules for classification of risks and rate modifications consistent with the objective of providing and maintaining funds sufficient to pay catastrophe losses.

b.*(I) Subject to the provisions of sub-sub-subparagraph (II), all rate filings under this subsection relating to coverage for windstorm losses must reflect historical insurance data. When using a computer model in making a rate filing under this subsection, the association may use only a computer model which is based upon standards and guidelines developed or established by the Florida Commission on Hurricane Loss Projection Methodology under s. 627.0628. Consideration of historical insurance data and the use of computer models shall be consistent with applicable Standards of Practice of the American Academy of Actuaries.* The association may require arbitration of a rate filing under s. 627.062(6).

(II) ~~It is the intent of the Legislature that the~~ Rates for coverage provided by the association *must* be actuarially sound and not competitive with approved rates charged in the admitted voluntary market such that the association functions as a residual market mechanism to provide insurance only when the insurance cannot be procured in the voluntary market. The plan of operation shall provide a mechanism to assure that *the average base rates for each line of business charged by the asociation for hurricane coverage for each unmitigated risk in a particular county shall be no lower than the highest department-approved rate within the association's eligible area for hurricane coverage in the voluntary market for each line of business in such county, among the 20 largest insurers actually writing such coverage in such county* ~~, beginning no later than January 1, 1999, the rates charged by the association for each line of business are reflective of approved rates in the voluntary market for hurricane coverage for each line of business in the various areas eligible for association coverage~~.

(III) Notwithstanding any other provision of law, windstorm rates under this subsection previously adjudicated for use and in effect as of the effective date of this act, and the related mitigation credit program, shall apply to rates of the association and shall continue in effect until such rates are fully phased in. The rate for a particular group or class of policies may be increased only after the full phase-in of the current rate plan as to that group or class of policies.

c. The association shall provide for windstorm coverage on residential properties in limits up to $10 million for commercial lines residential risks and up to $1 million for personal lines residential risks. If coverage with the association is sought for a residential risk valued in excess of these limits, coverage shall be available to the risk up to the replacement cost or actual cash value of the property, at the option of the insured, if coverage for the risk cannot be located in the authorized market. The association must accept a commercial lines residential risk with limits above $10 million or a personal lines residential risk with limits above $1 million if coverage is not available in the authorized market. The association may write coverage above the limits specified in this subparagraph with or without facultative or other reinsurance coverage, as the association determines appropriate.

d. The plan of operation must provide objective criteria and procedures, approved by the department, to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

(I) Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

(II) Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the association pursuant to such criteria and procedures must be construed as the private placement of insurance, and the provisions of chapter 120 do not apply.

e. The policies issued by the association must provide that if the association obtains an offer from an authorized insurer to cover the risk at its approved rates under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the department, a basic policy including wind coverage, the risk is no longer eligible for coverage through the association. Upon termination of eligibility, the association shall provide written notice to the policyholder and agent of record stating that the association policy must be canceled as of 60 days after the date of the notice because of the offer of coverage from an authorized insurer. Other provisions of the insurance code relating to cancellation and notice of cancellation do not apply to actions under this sub-subparagraph.

f. Association policies and applications must include a notice that the association policy could, under this section, be replaced with a policy issued by an authorized insurer that does not provide coverage identical to the coverage provided by the association. The notice shall also specify that acceptance of association coverage creates a conclusive presumption that the applicant or policyholder is aware of this potential.

g. If the risk accepts an offer of coverage through the market assistanceprogram or through a mechanism established by the association, either before the policy is issued by the association or during the first 30 days of coverage by the association, and the producing agent who submitted the application to the association is not currrently appointed by the insurer, the insurer shall either:

(I) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(II) Offer to allow the producing agency of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the association's usual and customary commission for the type of policy written.

If the new or producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-subparagraph (I).

h. When the association enters into a contractual agreement for a take-out plan, the producing agent of record of the association policy is entitled to retain any unearned commission on the policy, and the insurer shall either:

(I) Pay to the producing agent of record of the association policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(II) Offer to allow the producing agent of record of the association policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the association's usual and customary commission for the type of policy written.

If the new or producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-subparagraph(I).

6.a. The plan of operation may authorize the formation of a private nonprofit corporation, a private nonprofit unincorporated association, a partnership, a trust, a limited liability company, or a nonprofit mutual company which may be empowered, among other things, to borrow money by issuing bonds or by incurring other indebtedness and to accumulate reserves or funds to be used for the payment of insured catastrophe losses. The plan may authorize all actions necessary to facilitate the issuance of bonds, including the pledging of assessments or other revenues.

b. Any entity created under this subsection, or any entity formed for the purposes of this subsection, may sue and be sued, may borrow money; issue bonds, notes, or debt instruments; pledge or sell assessments, market equalization surcharges and other surcharges, rights, premiums, contractual rights, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, and other assets as security for such bonds, notes, or debt instruments; enter into any contracts or agreements necessary or proper to accomplish such borrowings; and take other actions necessary to carry out the purposes of this subsection. The association may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (g)2., in the absence of a hurricane or other weather-related event, upon a determination by the association subject to approval by the department that such action would enable it to efficiently meet the financial obligations of the association and that such financings are reasonably necessary to effectuate the requirements of this subsection. Any such entity may accumulate reserves and retain surpluses as of the end of any association year to provide for the payment of losses incurred by the association during that year or any future year. The association shall incorporate and continue the plan of operation and articles of agreement in effect on the effective date of chapter 76-96, Laws of Florida, to the extent that it is not inconsistent with chapter 76-96, and as subsequently modified consistent with chapter 76-96. The board of directors and officers currently serving shall continue to serve until their successors are duly qualified as provided under the plan. The assets and obligations of the plan in effect immediately prior to the effective date of chapter 76-96 shall be construed to be the assets and obligations of the successor plan created herein.

c. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness issued or incurred by the association or any other entity created under this subsection.

7. On such coverage, an agent's remuneration shall be that amount of money payable to the agent by the terms of his or her contract with the company with which the business is placed. However, no commission will be paid on that portion of the premium which is in excess of the standard premium of that company.

8. Subject to approval by the department, the association may establish different eligibility requirements and operational procedures for any line or type of coverage for any specified eligible area or portion of an eligible area if the board determines that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the association. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

9. Notwithstanding any other provision of law:

a. The pledge or sale of, the lien upon, and the security interest in any rights, revenues, or other assets of the association created or purported to be created pursuant to any financing documents to secure any bonds or other indebtedness of the association shall be and remain valid and enforceable, notwithstanding the commencement of and during the continuation of, and after, any rehabilitation, insolvency, liquidation, bankruptcy, receivership, conservatorship, reorganization, or similar proceeding against the association under the laws of this state or any other applicable laws.

b. No such proceeding shall relieve the association of its obligation, or otherwise affect its ability to perform its obligation, to continue to collect, or levy and collect, assessments, market equalization or other surcharges, projected recoveries from the Florida Hurricane

Catastrophe Fund, reinsurance recoverables, or any other rights, revenues, or other assets of the association pledged.

c. Each such pledge or sale of, lien upon, and security interest in, including the priority of such pledge, lien, or security interest, any such assessments, emergency assessments, market equalization or renewal surcharges, projected recoveries from the Florida Hurricane Catastrophe Fund, reinsurance recoverables, or other rights, revenues, or other assets which are collected, or levied and collected, after the commencement of and during the pendency of or after any such proceeding shall continue unaffected by such proceeding.

d. As used in this subsection, the term "financing documents" means any agreement, instrument, or other document now existing or hereafter created evidencing any bonds or other indebtedness of the association or pursuant to which any such bonds or other indebtedness has been or may be issued and pursuant to which any rights, revenues, or other assets of the association are pledged or sold to secure the repayment of such bonds or indebtedness, together with the payment of interest on such bonds or such indebtedness, or the payment of any other obligation of the association related to such bonds or indebtedness.

e. Any such pledge or sale of assessments, revenues, contract rights or other rights or assets of the association shall constitute a lien and security interest, or sale, as the case may be, that is immediately effective and attaches to such assessments, revenues, contract, or other rights or assets, whether or not imposed or collected at the time the pledge or sale is made. Any such pledge or sale is effective, valid, binding, and enforceable against the association or other entity making such pledge or sale, and valid and binding against and superior to any competing claims or obligations owed to any other person or entity, including policyholders in this state, asserting rights in any such assessments, revenues, contract, or other rights or assets to the extent set forth in and in accordance with the terms of the pledge or sale contained in the applicable financing documents, whether or not any such person or entity has notice of such pledge or sale and without the need for any physical delivery, recordation, filing, or other action.

f. There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer or its agents or employees, agents or employees of the association, members of the board of directors of the association, or the department or its representatives, for any action taken by them in the performance of their duties or responsibilities under this subsection. Such immunity does not apply to actions for breach of any contract or agreement pertaining to insurance, or any willful tort.

10. It is the intent of the Legislature that the association vigorously pursue an exemption from federal income taxation and tax-free status for bonds issued by or on behalf of the association. In furtherance of this intent:

a. The association shall retain such expert tax counsel and bond counsel as necessary and expend such funds as necessary to pursue such negotiations or litigation as may lead to favorable tax rulings.

b. The association shall, no later than January 1, 2002, provide a report to the Governor, the Insurance Commissioner, the President of the Senate, and the Speaker of the House of Representatives detailing the status of the negotiations or litigation and recommending statutory changes, if any, needed to secure favorable tax rulings.

(f)1. In recognition of the fact that the association created under this subsection furthers an essentially governmental purpose, the association is exempt from premium taxes effective July 1, 2002.

2. Begining with the 2002-2003 fiscal year, and except for years in which the association is collecting regular or emergency assessments under this subsection, the association shall annually transfer the sum of $5 million to the General Revenue Fund, which moneys shall be appropriated for hurricane loss mitigation purposes as specified in s. 215.555(7)(c). Such appropriations are in addition to any appropriations required or authorized by s. 215.555(7)(c).

(6) RESIDENTIAL PROPERTY AND CASUALTY JOINT UNDERWRITING ASSOCIATION.—

(c) The plan of operation of the association:

1. May provide for one or more designated insurers, able and willing to provide policy and claims service, to act on behalf of the association to provide such service. Each licensed agent shall be entitled to indicate the order of preference regarding who will service the business placed by the agent. The association shall adhere to each agent's preferences unless after consideration of other factors in assigning agents, including, but not limited to, servicing capacity and fee arrangements, the association has reason to believe it is in the best interest of the association to make a different assignment.

2. Must provide for adoption of residential property and casualty insurance policy forms, which forms must be approved by the department prior to use. The association shall adopt the following policy forms:

a. Standard personal lines policy forms including wind coverage, which are multiperil policies providing what is generally considered to be full coverage of a residential property similar to the coverage provided under an HO-2, HO-3, HO-4, or HO-6 policy.

b. Standard personal lines policy forms without wind coverage, which are the same as the policies described in sub-subparagraph a. except that they do not include wind coverage.

c. Basic personal lines policy forms including wind coverage, which are policies similar to an HO-8 policy or a dwelling fire policy that provide coverage meeting the requirements of the secondary mortgage market, but which coverage is more limited than the coverage under a standard policy.

d. Basic personal lines policy forms without wind coverage, which are the same as the policies described in sub-subparagraph c. except that they do not include wind coverage.

e. Commercial lines residential policy forms including wind coverage that are generally similar to the basic perils of full coverage obtainable for commercial residential structures in the admitted voluntary market.

f. Commercial lines residential policy forms without wind coverage, which are the same as the policies described in sub-subparagraph e. except that they do not include wind coverage.

3. May provide that the association may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan. The association shall have the power to borrow funds, by issuing bonds or by incurring other indebtedness, and shall have other powers reasonably necessary to effectuate the requirements of this subsection. The association may issue bonds or incur other indebtedness, or have bonds issued on its behalf by a unit of local government pursuant to subparagraph (g)2., in the absence of a hurricane or other weather-related event, upon a determination by the association, subject to approval by the department, that such action would enable it to efficiently meet the financial obligations of the association and that such financings are reasonably necessary to effectuate the requirements of this subsection. The association is authorized to take all actions needed to facilitate tax-free status for any such bonds or indebtedness, including formation of trusts or other affiliated entities. The association shall have the authority to pledge assessments, projected recoveries from the Florida Hurricane Catastrophe Fund, other reinsurance recoverables, market equalization and other surcharges, and other funds available to the association as security for bonds or other indebtedness. In recognition of s. 10, Art. I of the State Constitution, prohibiting the impairment of obligations of contracts, it is the intent of the Legislature that no action be taken whose purpose is to impair any bond indenture or financing agreement or any revenue source committed by contract to such bond or other indebtedness.

4. Must require that the association operate subject to the supervision and approval of a board of governors *consisting of the members of the State Board of Administration.* ~~consisting of 13 individuals, including 1 who is elected as chair. The board shall consist of:~~

~~a. The insurance consumer advocate appointed under s. 627.0613.~~

~~b. Five members designated by the insurance industry.~~

~~c. Five consumer representatives appointed by the Insurance Commissioner. Two of the consumer representatives must, at the time of appointment, be holders of policies issued by the association, who are selected with consideration given to reflecting the geographic balance of association policyholders. Two of the consumer members must be individuals who are minority persons as defined in s. 288.703(3). One of the consumer members shall have expertise in the field of mortgage lending.~~

~~d. Two representatives of the insurance industry appointed by the Insurance Commissioner. Of the two insurance industry representatives appointed by the Insurance Commissioner, at least one must be an individual who is a minority person as defined in s. 288.703(3).~~

~~Any board member may be disapproved or removed and replaced by the commissioner at any time for cause. All board members, including the chair, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan.~~

5. Must provide a procedure for determining the eligibility of a risk for coverage, as follows:

a. With respect to personal lines residential risks, if the risk is offered coverage from an authorized insurer at the insurer's approved rate under either a standard policy including wind coverage or, if consistent with the insurer's underwriting rules as filed with the department, a basic policy including wind coverage, the risk is not eligible for any policy issued by the association.

(I) If the risk accepts an offer of coverage through the market assistance program or through a mechanism established by the association, either before the policy is issued by the association or during the first 30 days of coverage by the association, and the producing agent who submitted the application to the association is not currently appointed by the insurer, the insurer shall either:

(A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary cmmission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(B) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the ssociation's usual and customary commission for the type of policy written.

If the new or producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

(II) When the association enters into a contractual agreement for a take-out plan, the producing agent of record of the association policy is entitled to retain any unearned commission on the policy, and the isnurer shall either:

(A) Pay to the producing agent of record of the association policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(B) Offer to allow the producing agent of record of the associaton policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the asociation's usual and customary commission for the type of policy written.

If the new or producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A). ~~If the risk accepts an offer of coverage through the market assistance plan or an offer of coverage through a mechanism established by the association before a policy is issued to the risk by the association or during the first 30 days of coverage by the association, and the producing agent who submitted the application to the plan or to the association is not currently appointed by the insurer, the insurer shall either appoint the agent to service the risk or, if the insurer places the coverage through a new agent, require the new agent who then writes the policy to pay not less than 50 percent of the first year's commission to the producing agent who submitted the application to the plan or the association, except that if the new agent is an employee or exclusive agent of the insurer, the new agent shall pay a policy fee of $50 to the producing agent in lieu of splitting the commission.~~ If the risk is not able to obtain any such offer, the risk is eligible for either a standard policy including wind coverage or a basic policy including wind coverage issued by the association; however, if the risk could not be insured under a standard policy including wind coverage regardless of market conditions, the risk shall be eligible for a basic policy including wind coverage unless rejected under subparagraph 8. The association shall determine the type of policy to be provided on the basis of objective standards specified in the underwriting manual and based on generally accepted underwriting practices.

b. With respect to commercial lines residential risks, if the risk is offered coverage under a policy including wind coverage from an authorized insurer at its approved rate, the risk is not eligible for any policy issued by the association.

(I) If the risk accepts an offer of coverage through the market assistance program or through a mechanism established by the association, either before the policy is issued by the association or during the first 30 days of coverage by the association, and the producing agent who submitted the application to the association is not currently appointed by the insurer, the insurer shall either:

(A) Pay to the producing agent of record of the policy, for the first year, an amount that is the greater of the insurer's usual and customary cmmission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(B) Offer to allow the producing agent of record of the policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the ssociation's usual and customary commission for the type of policy written.

If the new or producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A).

(II) When the association enters into a contractual agreement for a take-out plan, the producing agent of record of the association policy is entitled to retain any unearned commission on the policy, and the isnurer shall either:

(A) Pay to the producing agent of record of the association policy, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association; or

(B) Offer to allow the producing agent of record of the associaton policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent the greater of the insurer's or the asociation's usual and customary commission for the type of policy written.

If the new or producing gent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with sub-sub-sub-subparagraph (A). ~~If the risk accepts an offer of coverage through the market assistance plan or an offer of coverage through a mechanism established by the association before a policy is issued to the risk by the association, and the producing agent who submitted the application to the plan or the association is not currently appointed by the insurer, the insurer shall either appoint the agent to service the risk or, if the insurer places the coverage through a new agent, require the new agent who then writes the policy to pay not less than 50 percent of the first year's commission to the producing agent who submitted the application to the plan, except that if the new agent is an employee or exclusive agent of the insurer, the new agent shall pay a policy fee of $50 to the producing agent in lieu of splitting the commission.~~ If the risk is

not able to obtain any such offer, the risk is eligible for a policy including wind coverage issued by the association.

c. This subparagraph does not require the association to provide wind coverage or hurricane coverage in any area in which such coverage is available through the Florida Windstorm Underwriting Association.

6. Must include rules for classifications of risks and rates therefor.

7. Must provide that if premium and investment income attributable to a particular plan year are in excess of projected losses and expenses of the plan attributable to that year, such excess shall be held in surplus. Such surplus shall be available to defray deficits as to future years and shall be used for that purpose prior to assessing member insurers as to any plan year.

8. Must provide objective criteria and procedures to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

a. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

b. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the association shall be construed as the private placement of insurance, and the provisions of chapter 120 shall not apply.

9. Must provide that the association shall make its best efforts to procure catastrophe reinsurance at reasonable rates, as determined by the board of governors.

10. Must provide that in the event of regular deficit assessments under sub-subparagraph (b)3.a. or sub-subparagraph (b)3.b., or by the Florida Windstorm Underwriting Association under sub-sub-subparagraph (2)(b)2.d.(I) or sub-sub-subparagraph (2)(b)2.d.(II), the association shall levy upon association policyholders in its next rate filing, or by a separate rate filing solely for this purpose, a market equalization surcharge in a percentage equal to the total amount of such regular assessments divided by the aggregate statewide direct written premium for subject lines of business for member insurers for the prior calendar year. Market equalization surcharges under this subparagraph are not considered premium and are not subject to commissions, fees, or premium taxes; however, failure to pay a market equalization surcharge shall be treated as failure to pay premium.

11. The policies issued by the association must provide that, if the association or the market assistance plan obtains an offer from an authorized insurer to cover the risk at its approved rates under either a standard policy including wind coverage or a basic policy including wind coverage, the risk is no longer eligible for coverage through the association. However, if the risk is located in an area in which Florida Windstorm Underwriting Association coverage is available, such an offer of a standard or basic policy terminates eligibility regardless of whether or not the offer includes wind coverage. Upon termination of eligibility, the association shall provide written notice to the policyholder and agent of record stating that the association policy shall be canceled as of 60 days after the date of the notice because of the offer of coverage from an authorized insurer. Other provisions of the insurance code relating to cancellation and notice of cancellation do not apply to actions under this subparagraph.

12. Association policies and applications must include a notice that the association policy could, under this section or s. 627.3511, be replaced with a policy issued by an admitted insurer that does not provide coverage identical to the coverage provided by the association. The notice shall also specify that acceptance of association coverage creates a conclusive presumption that the applicant or policyholder is aware of this potential.

13. May establish, subject to approval by the department, different eligibility requirements and operational procedures for any line or type of coverage for any specified county or area if the board determines that such changes to the eligibility requirements and operational procedures are justified due to the voluntary market being sufficiently stable and competitive in such area or for such line or type of coverage and that consumers who, in good faith, are unable to obtain insurance through the voluntary market through ordinary methods would continue to have access to coverage from the association. When coverage is sought in connection with a real property transfer, such requirements and procedures shall not provide for an effective date of coverage later than the date of the closing of the transfer as established by the transferor, the transferee, and, if applicable, the lender.

Section 2. Subsection (4) of section 627.3511, Florida Statutes,is amended to read:

627.3511 Depopulation of Residential Property and Casualty Joint Underwriting Association.—

(4) AGENT BONUS.—When the Residential Property and Casualty Joint Underwriting Association enters into a contractual agreement for a take-out plan that provides a bonus to the insurer, the producing agent of record of the association policy is entitled to retain any unearned commission on such policy, and the insurer shall either:

(a) Pay to the producing agent of record of the association policy*, for the first year, an amount that is the greater of the insurer's usual and customary commission for the type of policy written or a fee equal to the usual and customary commission of the association* ~~an amount equal to the insurer's usual and customary commission for the type of policy written if the term of the association policy was in excess of 6 months, or one-half of such usual and customary commission if the term of the association policy was 6 months or less~~; or

(b) Offer to allow the producing agent of record of the association policy to continue servicing the policy for a period of not less than 1 year and offer to pay the agent *the greater of* the insurer's *or the association's*usual and customary commission for the type of policy written.

If the new or producing agent is unwilling or unable to accept appointment, the new insurer shall pay the agent in accordance with paragraph (a). The insurer need not take any further action if the offer is rejected. This subsection does not apply to any reciprocal interinsurance exchange, nonprofit federation, or any subsidiary or affiliate of such organization. This subsection does not apply if the agent is also the agent of record on the new coverage. The requirement of this subsection that the producing agent of record is entitled to retain the unearned commission on an association policy does not apply to a policy for which coverage has been provided in the association for 30 days or less or for which a cancellation notice has been issued pursuant to s. 627.351(6)(c)11. during the first 30 days of coverage.

Section 3. Subsection (2) of section 627.7013, Florida Statutes is amended to read:

627.7013 Orderly markets for personal lines residential property insurance.—

(2) MORATORIUM COMPLETION.—

(a) As used in this subsection, the term "total number of policies" means the number of an insurer's policies of a specified type that were in force on June 1, 1996, or the date on which this section became law, whichever was later.

(b) The following restrictions apply only to cancellation or nonrenewal of personal lines residential property insurance policies that were in force on June 1, 1996, or the date on which this section became law, whichever was later.

1. In any 12-month period, an insurer may not cancel or nonrenew more than 5 percent of such insurer's total number of homeowner's policies, 5 percent of such insurer's total number of mobile home owner's policies, or 5 percent of such insurer's total number of personal lines residential policies of all types and classes in the state for the purpose of reducing the insurer's exposure to hurricane claims and may not, with

respect to any county, cancel or nonrenew more than 10 percent of its total number of homeowner's policies, 10 percent of its total number of mobile home owner's policies, or 10 percent of its total number of personal lines residential policies of all types and classes in the county for the purpose of reducing the insurer's exposure to hurricane claims. This subparagraph does not prohibit any cancellations or nonrenewals of such policies for any other lawful reason unrelated to the risk of loss from hurricane exposure.

2.a. If, for any 12-month period, an insurer proposes to cancel or nonrenew personal lines residential policies to an extent not authorized by subparagraph 1. for the purpose of reducing exposure to hurricane claims, the insurer must file a phaseout plan with the department at least 90 days prior to the effective date of the plan. In the plan, the insurer must demonstrate to the department that the insurer is protecting market stability and the interests of its policyholders. The plan may not be implemented unless it is approved by the department. In developing the plan, the insurer must consider policyholder longevity, the use of voluntary incentives to accomplish the reduction, and geographic distribution. The insurer must demonstrate that under the plan the insurer will not cancel or nonrenew more policies in the 12-month period than the largest number of similar policies the insurer canceled or nonrenewed for any reason in any 12-month period between August 24, 1989, and August 24, 1992.

b. If the insurer considers the number of cancellations and nonrenewals under sub-subparagraph a. to be insufficient, the insurer may apply for approval of additional cancellations or nonrenewals on the basis of an unreasonable risk of insolvency. In evaluating a request under this sub-subparagraph, the department shall consider and shall require the insurer to provide information relevant to: the insurer's size, market concentration, and general financial condition; the portion of the insurer's business in this state represented by personal lines residential property insurance; the reasonableness of assumptions with respect to size, frequency, severity, and path of hurricanes; the reinsurance available to the insurer and potential recoveries from the Florida Hurricane Catastrophe Fund; and the extent to which the insurer's assets have been voluntarily transferred by dividend or otherwise from the insurer to its stockholders, parent companies, or affiliated companies since June 1, 1996, or the date on which this section became law, whichever was later. In the implementation of exposure reductions under this sub-subparagraph, the department and the insurer shall consider such factors as policyholder longevity, the use of voluntary incentives to accomplish the exposure reduction, and geographic distribution.

c. A policy shall not be counted as having been canceled or nonrenewed for purposes of this subsection if any of the following apply:

(I) The policy was canceled or nonrenewed for an underwriting reason unrelated to the risk of loss from hurricane exposure, nonpayment of premium, or any other lawful reason that is unrelated to the risk of loss from hurricane exposure. The department shall consider the reason specified in the notice of cancellation or nonrenewal to be the reason for the cancellation or nonrenewal unless the department finds by a preponderance of the evidence that the stated reason was not the insurer's actual reason for the cancellation or nonrenewal.

(II) The cancellation or nonrenewal was initiated by the insured.

(III) The insurer has offered the policyholder replacement or alternative coverage at approved rates, which coverage meets the requirements of the secondary mortgage market.

d. In addition to any other cancellations or nonrenewals subject to the limitations in this subsection, a policy shall be considered as having been canceled or nonrenewed for purposes of this subsection if:

(I) The insurer implements a rate increase under the use-and-file provisions of s. 627.062(2)(a)2., which rate increase exceeds 150 percent of the increase ultimately approved by the department, and, while the rate filing was pending, the policyholder voluntarily canceled or nonrenewed the policy and obtained replacement coverage from another insurer, including the Residential Property and Casualty Joint Underwriting Association; or

(II) The insurer reduces the commission to an agent by more than 25 percent and the agent thereafter places the risk with another insurer, including the Residential Property and Casualty Joint Underwriting Association, or the Florida Windstorm Underwriting Association.

e. The department must approve or disapprove an application for a waiver within 90 days after the department receives the application for waiver.

3. In addition to the cancellations or nonrenewals authorized under this section, an insurer may cancel or nonrenew policies to the extent authorized by an exemption from or waiver of either the moratorium created by chapter 93-401, Laws of Florida, or the moratorium phaseout under former s. 627.7013(2).

4. Notwithstanding any provisions of this section to the contrary, this section does not apply to any insurer that, prior to August 24, 1992, filed notice of such insurer's intent to discontinue writing insurance in this state under s. 624.430, and for which a finding has been made by the department, the Division of Administrative Hearings of the Department of Management Services, or a court that such notice satisfied all requirements of s. 624.430. Nothing in this section shall be construed to authorize an insurer to withdraw from any line of property insurance business for the purpose of reducing exposure to risk of hurricane loss if such withdrawal commenced at any time that the moratorium under chapter 93-401, Laws of Florida, or the moratorium phaseout under this section is in effect.

5. The following actions by an insurer do not constitute cancellations or nonrenewals for purposes of this subsection:

a. The transfer of a risk from one admitted insurer to another admitted insurer, unless the terms of the new or replacement policy place the policyholder in default of a mortgage obligation.

b. An increase in the hurricane deductible applicable to the policy, unless the new deductible places the policyholder in default of a mortgage obligation or the deductible exceeds the limits specified in s. 627.701.

c. Any other lawful change in coverage that does not place the policyholder in default of a mortgage obligation.

d. A cancellation or nonrenewal that is part of the same action as the removal of a policy including windstorm or hurricane coverage from the Residential Property and Casualty Joint Underwriting Association.

6. In order to assure fair and effective enforcement of this subsection, each insurer shall, no later than October 1, 1996, report to the department the policy number of each policy subject to this subsection, arranged by county. The report shall include the policy number for each personal lines residential policy that was in force on June 1, 1996, or the date this section became law, whichever was later. Beginning October 1, 1996, each insurer shall also report, on a monthly basis, all cancellations and nonrenewals of policies included in such policy list and the reasons for the cancellations and nonrenewals.

(c) The department may adopt rules to implement this subsection.

(d) This section shall cease to operate at such time as the department determines that the insured value of all residential properties insured by the Florida Windstorm Underwriting Association and all properties insured by the Residential Property and Casualty Joint Underwriting Association under policies providing wind coverage, combined, has remained below $25 billion for 3 consecutive months, based on exposure data reported to the department by the associations.

(e) This subsection is repealed on June 1, *2004* ~~2001~~.

Section 4. Subsections (1) and (4) of section 624.4072, Florida Statutes, are amended to read:

624.4072 Minority-owned property and casualty insurers; limited exemption for taxation and assessments.—

(1) A minority business that is at least 51 percent owned by minority persons, as defined in s. 288.703(3), initially issued a certificate of authority in this state as an authorized insurer after May 1, 1998, to write property and casualty insurance shall be exempt, for a period not to exceed *10* ~~5~~ years from the date of receiving its certificate of authority, from the following taxes and assessments:

(a) Taxes imposed under ss. 175.101, 185.08, and 624.509;

(b) Assessments by the Florida Residential Property and Casualty Joint Underwriting Association or by the Florida Windstorm Underwriting Association, as provided under s. 627.351, except for emergency assessments collected from policyholders pursuant to s. 627.351(2)(b)2.d.(III) and (6)(b)3.d. Any such insurer shall be a member insurer of the Florida Windstorm Underwriting Association and the Florida Residential Property and Casualty Joint Underwriting Association. The premiums of such insurer shall be included in determining, for the Florida Windstorm Underwriting Association, the aggregate statewide direct written premium for property insurance and in determining, for the Florida Residential Property and Casualty Joint Underwriting Association, the aggregate statewide direct written premium for the subject lines of business for all member insurers.

(4) This section is repealed effective *December 31, 2010* ~~July 1, 2003~~, and the tax and assessment exemptions authorized by this section shall terminate on such date.

And the title is amended as follows:

On page 16, line 28, of the amendment
remove: "the Department of Insurance"

and insert in lieu thereof: insurance; amending s. 627.351, F.S.; specifying membership of the boards of the Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association; revising criteria for limited apportionment; providing rate standards; specifying duties with respect to pursuit of federal tax exemptions and tax-free bond status; providing premium tax exemption; providing for appropriation of funds for hurricane loss mitigation purposes; providing standards for certain payments to agents of record of Florida Winstorm Underwriting Association and Residential Property and Casualty Joint Underwriting Association policies; amending s. 627.3511, F.S.; revising agent compensation in connection with take-out plans; amending s. 627.7013, F.S.; delaying the repeal date of the moratorium on hurricane-related cancellation or nonrenewal of property insurance policies; amending s. 624.4072, F.S.; increasing a period of exemption from certain taxes and assessments for certain minority businesses; extending a future repeal;

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

Representative(s) Bennett offered the following:

(Amendment Bar Code: 075569)

Amendment 5 to Amendment 1 (with title amendment)—On page 15, lines 2 through 27,
remove from the amendment: all of said lines

And the title is amended as follows:

On page 17, line 30 through page 18, line 1, of the amendment
remove: all of said lines

and insert in lieu thereof: 641.3108,

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

Representative(s) Heyman offered the following:

(Amendment Bar Code: 413689)

Amendment 6 to Amendment 1 (with title amendment)—On page 16, between lines 16 and 17, of the amendment,

insert:

Section 17. *Any meeting of the board or a committee of the Florida Windstorm Underwriting Association, held pursuant to s. 627.351, Florida Statutes, shall be open to the public and notice shall be provided to the public pursuant to s. 286.011, Florida Statutes.*

And the title is amended as follows:

On page 18, line 5, of the amendment, after the semicolon,

insert: requirign certain meetings of the Florida Windstorm Underwriting Association to be open to the public; requiring notice;

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

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

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

CS/HB 161—A bill to be entitled An act relating to water management; creating the Citrus/Hernando Waterways Restoration Council; providing for membership, powers, and duties; providing for separate county task forces; providing for an advisory group to the council; providing for a report to the Legislature; requiring the Southwest Florida Water Management District to provide staff for the council; providing for a Citrus/Hernando Waterways restoration program; providing program tasks; providing for award of contracts subject to an appropriation of funds; providing for demonstration restoration projects; providing appropriations; providing effective dates.

—was read the second time by title.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 214975)

Amendment 1—On page 2, line 15
remove from the bill: *Basin Boards*

and insert in lieu thereof: *Basins*

Rep. Argenziano moved the adoption of the amendment, which failed of adoption.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 523701)

Amendment 2—On page 5, line 21
remove from the bill: *undertaken*

and insert in lieu thereof: *considered*

Rep. Argenziano moved the adoption of the amendment, which failed of adoption.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 125799)

Amendment 3—On page 6, line 23

after the word "River" insert: *with proper permits*

Rep. Argenziano moved the adoption of the amendment, which failed of adoption.

The Committee on General Government Appropriations offered the following:

(Amendment Bar Code: 140375)

Amendment 4 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *(1) Citrus/Hernando Waterways Restoration Council.—There is created within the Withlacoochee and Coastal Rivers Basins of the Southwest Florida Water Management District the Citrus/Hernando Waterways Restoration Council. The council shall be coordinated by representatives of the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, and the Southwest Florida Water Management District. The council is subject to the provisions of chapters 119 and 120, Florida Statutes.*

(2) The council shall consist of 12 voting members, six of whom shall be appointed by the President of the Senate and six of whom shall be appointed by the Speaker of the House of Representatives.

(a) The President of the Senate shall appoint council members as follows:

1. An attorney from each county.

2. A member of the board of directors of the chamber of commerce from each county.

3. An environmental engineer from each county.

(b) The Speaker of the House of Representatives shall appoint council members as follows:

1. A waterfront property owner from each county.

2. An engineer from each county.

3. A person from each county with training in biology or another scientific discipline.

(3) The council members from each county shall form two separate county task forces from the council to review and make recommendations on specific waterways within their respective counties.

(4) There shall be a technical advisory group to the council and the two county task forces which shall consist of one representative each from the Southwest Florida Water Management District, the Department of Environmental Protection, the Department of Transportation, the Fish and Wildlife Conservation Commission, the Coastal Rivers Basin Board, the Withlacoochee River Basin Board, and the United States Army Corps of Engineers, each of whom shall be appointed by his or her respective agency and each of whom, with the exception of the representatives from the Withlacoochee River Basin Board and the Coastal Rivers Basin Board, shall have had training in biology or another scientific discipline.

(5) Immediately after appointment, the council shall meet and organize by electing a chair, a vice chair, and a secretary, whose terms shall be for 2 years each. Council officers shall not serve consecutive terms. Each council member shall be a voting member. Additionally, the two county task forces shall each elect a chair and a secretary, whose terms shall be for 2 years each.

(6) The council or a county task force shall meet at the call of its chair or at the request of six of its members.

(7) The council shall have the powers and duties to:

(a) Review audits and all data specifically related to lake and river restoration techniques and sport fish population recovery strategies, including data and strategies for shoreline restoration, sand and other sediment control and removal, exotic species management, floating tussock management or removal, navigation, water quality, and fish and wildlife habitat improvement, particularly as they may apply to the Citrus/Hernando waterways.

(b) Evaluate whether additional studies are needed.

(c) Explore all possible sources of funding to conduct the restoration activities, including funds provided to any advisory group agency for restoration purposes.

(d) Report to the Speaker of the House of Representatives and the President of the Senate before November 25 of each year on the progress of the Citrus/Hernando Waterways restoration program and any recommendations for the next fiscal year.

(8) The Southwest Florida Water Management District shall provide staff to assist the council in carrying out the provisions of this act.

(9) Members of the council shall receive no compensation for their services but are entitled to be reimbursed for the per diem and travel expenses incurred during execution of their official duties, as provided in s. 112.061, Florida Statutes. State and federal agencies shall be responsible for the per diem and travel expenses of their representatives on the technical advisory group, and the Southwest Florida Water Management District shall be responsible for per diem and travel expenses of council members.

Section 2. *Citrus/Hernando Waterways restoration program.—*

(1) The Fish and Wildlife Conservation Commission and the Southwest Florida Water Management District, in conjunction with the Department of Environmental Protection, pertinent local governments, and the Citrus/Hernando Waterways Restoration Council, shall review existing restoration proposals to determine which provide the most environmentally sound and economically feasible methods of improving the fish and wildlife habitat and natural systems of the Citrus/Hernando waterways.

(2) To initiate the Citrus/Hernando Waterways restoration program recommended by the Citrus/Hernando Waterways Restoration Council, the Fish and Wildlife Conservation Commission, with assistance from the Southwest Florida Water Management District and in consultation and by agreement with the Department of Environmental Protection and pertinent local governments, shall develop tasks to be considered by those entities for the enhancement of fish and wildlife habitat. These agencies shall:

(a) Evaluate different methodologies for removing the extensive tussocks and buildup of organic matter along the shoreline and of the aquatic vegetation in the lake.

(b) Conduct any additional studies as recommended by the Citrus/Hernando Waterways Restoration Council.

(3) Contingent upon the Legislature's appropriating funds for the Citrus/Hernando Waterways restoration program and in conjunction with financial participation by federal, other state, and local governments, the appropriate agencies shall, through competitive bid, award contracts to implement the activities of the Citrus/Hernando Waterways restoration program.

Section 3. *The Fish and Wildlife Conservation Commission is authorized to conduct a demonstration restoration project on the Tsala-Apopka Chain of Lakes for the purpose of removing, with proper permits, overlying undesirable vegetation and associated organic material down to mineralized soils, thus allowing for the establishment of a more desirable aquatic plant community on hard, sandy substrate and creating better habitat for fish and wildlife.*

Section 4. *The Southwest Florida Water Management District is authorized to conduct a demonstration restoration project on the Weeki Wachee River with proper permits to improve water flow by implementing a sand containment and erosion control project. The project may include other restoration activities related to improving water flow.*

Section 5. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, line 15
remove from the title of the bill: "providing appropriations;"

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

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 920995)

Amendment 5 (with title amendment)—On page 4, line 21, and on

Page 4, line 31, and on

Page 6, lines 5-6
remove from the bill: *Southwest Florida Water Management District*

and insert in lieu thereof: *Florida Fish and Wildlife Conservation Commission*

And the title is amended as follows:

On page 1, lines 8-9
remove from the title of the bill: all of said lines

and insert in lieu thereof:
Legislature; requiring the Florida Fish and Wildlife Conservation Commission to provide staff for

Rep. Argenziano moved the adoption of the amendment, which failed of adoption.

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

HB 595 was taken up. On motion by Rep. Haridopolos, the rules were waived and CS for SB 838 was substituted for HB 595. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 838—A bill to be entitled An act relating to landlord and tenant; amending s. 83.67, F.S.; exempting certain landlords from a requirement to give notice to former tenants regarding personal property; amending s. 475.011, F.S.; providing an exemption from the real estate brokers and salespersons regulatory law; amending ss. 715.105, 715.106, 715.109, F.S.; increasing the value of abandoned personal property that may be kept, sold, or destroyed by a landlord; conforming notice provisions; providing for termination of a rental agreement by a member of the United States Armed Forces; providing an effective date.

—was read the second time by title.

Representative(s) Haridopolos offered the following:

(Amendment Bar Code: 304711)

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

and insert in lieu thereof:

Section 1. Subsection (3) of section 83.49, Florida Statutes, is amended to read:

83.49 Deposit money or advance rent; duty of landlord and tenant.—

(3)(a) Upon the vacating of the premises for termination of the lease, *if the landlord does not intend to impose a claim on the security deposit,* the landlord shall have 15 days to return the security deposit together with interest if otherwise required, or *the landlord shall have 30 days* ~~in which~~ to give the tenant written notice by certified mail to the tenant's last known mailing address of his or her intention to impose a claim on the deposit and the reason for imposing the claim. The notice shall contain a statement in substantially the following form:

This is a notice of my intention to impose a claim for damages in the amount of . . . . upon your security deposit, due to . . . . . It is sent to you as required by s. 83.49(3), Florida Statutes. You are hereby notified that you must object in writing to this deduction from your security deposit within 15 days from the time you receive this notice or I will be authorized to deduct my claim from your security deposit. Your objection must be sent to . . .(landlord's address). . ..

If the landlord fails to give the required notice within the *30-day* ~~15-day~~ period, he or she forfeits the right to impose a claim upon the security deposit.

(b) Unless the tenant objects to the imposition of the landlord's claim or the amount thereof within 15 days after receipt of the landlord's notice of intention to impose a claim, the landlord may then deduct the amount of his or her claim and shall remit the balance of the deposit to the tenant within 30 days after the date of the notice of intention to impose a claim for damages.

(c) If either party institutes an action in a court of competent jurisdiction to adjudicate the party's right to the security deposit, the prevailing party is entitled to receive his or her court costs plus a reasonable fee for his or her attorney. The court shall advance the cause on the calendar.

(d) Compliance with this section by an individual or business entity authorized to conduct business in this state, including Florida-licensed real estate brokers and salespersons, shall constitute compliance with all other relevant Florida Statutes pertaining to security deposits held pursuant to a rental agreement or other landlord-tenant relationship. Enforcement personnel shall look solely to this section to determine compliance. This section prevails over any conflicting provisions in chapter 475 and in other sections of the Florida Statutes, and shall operate to permit licensed real estate brokers to disburse security deposits and deposit money without having to comply with the notice and settlement procedures contained in s. 475.25(1)(d).

Section 2. Subsection (3) of section 83.67, Florida Statutes, is amended to read:

83.67 Prohibited practices.—

(3) No landlord of any dwelling unit governed by this part shall remove the outside doors, locks, roof, walls, or windows of the unit except for purposes of maintenance, repair, or replacement; nor shall the landlord remove the tenant's personal property from the dwelling unit unless said action is taken after surrender, abandonment, or a lawful eviction. If provided in the rental agreement or a written agreement separate from the rental agreement, upon surrender or abandonment by the tenant, the landlord *is not required to comply with s. 715.104 and is* ~~shall~~ not ~~be~~ liable or responsible for storage or disposition of the tenant's personal property; if provided in the rental agreement there *must* ~~shall~~ be printed or clearly stamped on such rental agreement a legend in substantially the following form:

BY SIGNING THIS RENTAL AGREEMENT THE TENANT AGREES THAT UPON SURRENDER OR ABANDONMENT, AS DEFINED BY *CHAPTER 83,* ~~THE~~ FLORIDA STATUTES, THE LANDLORD SHALL NOT BE LIABLE OR RESPONSIBLE FOR STORAGE OR DISPOSITION OF THE TENANT'S PERSONAL PROPERTY.

For the purposes of this section, abandonment shall be as set forth in s. 83.59(3)(c).

Section 3. Section 715.105, Florida Statutes, is amended to read:

715.105 Form of notice to former tenant.—

(1) A notice to the former tenant which is in substantially the following form satisfies the requirements of s. 715.104:

Notice of Right to Reclaim Abandoned Property

To: . . .(Name of former tenant). . .
. . .(Address of former tenant). . .

When you vacated the premises at . . .(address of premises, including room or apartment number, if any). . ., the following personal property remained: . . .(insert description of personal property). . ..

You may claim this property at . . .(address where property may be claimed). . ..

Unless you pay the reasonable costs of storage and advertising, if any, for all the above-described property and take possession of the property which you claim, not later than . . .(insert date not fewer than 10 days after notice is personally delivered or, if mailed, not fewer than 15 days after notice is deposited in the mail). . ., this property may be disposed of pursuant to s. 715.109.

(Insert here the statement required by subsection (2))

Dated:. . . . . .(Signature of landlord). . .

. . .(Type or print name of landlord). . .

. . .(Telephone number). . .

. . .(Address). . .

(2) The notice set forth in subsection (1) shall also contain one of the following statements:

(a) "If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the costs of storage, advertising, and sale are deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within 1 year after the county receives the money."

(b) "Because this property is believed to be worth less than *$500* ~~$250~~, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated above."

Section 4. Section 715.106, Florida Statutes, is amended to read:

715.106 Form of notice to owner other than former tenant.—

(1) A notice which is in substantially the following form given to a person who is not the former tenant and whom the landlord reasonably believes to be the owner of any of the abandoned personal property satisfies the requirements of s. 715.104:

Notice of Right to Reclaim Abandoned Property

To: . . .(Name). . .
. . .(Address). . .

When . . .(name of former tenant). . . vacated the premises at . . .(address of premises, including room or apartment number, if any). . ., the following personal property remained: . . .(insert description of personal property). . ..

If you own any of this property, you may claim it at . . .(address where property may be claimed). . .. Unless you pay the reasonable costs of storage and advertising, if any, and take possession of the property to which you are entitled, not later than . . .(insert date not fewer than 10 days after notice is personally delivered or, if mailed, not fewer than 15 days after notice is deposited in the mail). . ., this property may be disposed of pursuant to s. 715.109.

(Insert here the statement required by subsection (2))

Dated:. . . . . .(Signature of landlord). . .

. . .(Type or print name of landlord). . .

. . .(Telephone number). . .

. . .(Address). . .

(2) The notice set forth in subsection (1) shall also contain one of the following statements:

(a) "If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the costs of storage, advertising, and sale are deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within 1 year after the county receives the money."

(b) "Because this property is believed to be worth less than *$500* ~~$250~~, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated above."

Section 5. Subsection (1) of section 715.109, Florida Statutes, is amended to read:

715.109 Sale or disposition of abandoned property.—

(1) If the personal property described in the notice is not released pursuant to s. 715.108, it shall be sold at public sale by competitive bidding. However, if the landlord reasonably believes that the total resale value of the property not released is less than *$500* ~~$250~~, she or he may retain such property for her or his own use or dispose of it in any manner she or he chooses. Nothing in this section shall be construed to preclude the landlord or tenant from bidding on the property at the public sale. The successful bidder's title is subject to ownership rights, liens, and security interests which have priority by law.

Section 6. *(1) Any member of the United States Armed Forces who is required to move pursuant to permanent change of station orders to depart 35 miles or more from the location of a rental premises or who is prematurely or involuntarily discharged or released from active duty with the United States Armed Forces may terminate his or her rental agreement by providing the landlord with a written notice of termination to be effective on the date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord must be accompanied by either a copy of the official military orders or a written verification signed by the member's commanding officer.*

(2) Upon termination of a rental agreement under this section, the tenant is liable for the rent due under the rental agreement prorated to the effective date of the termination payable at such time as would have otherwise been required by the terms of the rental agreement. The tenant is not liable for any other rent or damages due to the early termination of the tenancy except the liquidated damages provided in this section. If a tenant terminates the rental agreement pursuant to this section 14 or more days prior to occupancy, no damages or penalties of any kind are due.

(3) In consideration of early termination of the rental agreement, the tenant is liable to the landlord for liquidated damages provided the tenant has completed less than 9 months of the tenancy and the landlord has suffered actual damages due to loss of the tenancy. The liquidated damages must be no greater than 1 month's rent if the tenant has completed less than 6 months of the tenancy as of the effective date of termination, or one-half of 1 month's rent if the tenant has completed at least 6 but not less than 9 months of the tenancy as of the effective date of termination.

(4) The provisions of this section may not be waived or modified by the agreement of the parties under any circumstances.

Section 7. Subsection (13) is added to section 475.011, Florida Statutes, to read:

475.011 Exemptions.—This part does not apply to:

(13) Any property management firm or any owner of an apartment complex for the act of paying a finder's fee or referral fee to an unlicensed person who is a tenant in such apartment complex provided the value of the fee does not exceed $50 per transaction. Nothing in this subsection authorizes an unlicensed person to advertise or otherwise promote the person's services in procuring or assisting in procuring prospective lessees or tenants of apartment units. For purposes of this subsection, "finder's fee" or "referral fee" means a fee paid, credit towards rent, or some other thing of value provided to a person for introducing or arranging an introduction between parties to a transaction involving the rental or lease of an apartment unit. It is a violation of s. 475.25(1)(h) and punishable under s. 475.42 for a property management firm or any owner of an apartment complex to pay a finder's fee or a referral fee to an unlicensed person unless expressly authorized by this subsection.

Section 8. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, lines 2-13,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to landlord and tenant; amending s. 83.49, F.S.; increasing the time period within which a landlord must notify a tenant of the intention to impose a claim on a security deposit; amending s. 83.67, F.S.; exempting certain landlords from a requirement to give notice to former tenants regarding personal property; amending ss. 715.105, 715.106, and 715.109, F.S.; increasing the value of abandoned personal property that may be kept, sold, or

destroyed by a landlord; conforming notice provisions; providing for termination of a rental agreement by a member of the United States Armed Forces; amending s. 475.011, F.S.; providing an additional exemption for certain activities; providing an effective date.

Rep. Haridopolos moved the adoption of the amendment.

On motion by Rep. Haridopolos, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Haridopolos and Miller offered the following:

(Amendment Bar Code: 614151)

Amendment 1 to Amendment 1 (with title amendment)—On page 1, line 17 through page 9 line 4, remove from the bill: all of said lines and

insert:

Section 1. Subsection (3) of section 83.49, Florida Statutes, is amended to read:

83.49 Deposit money or advance rent; duty of landlord and tenant.—

(3)(a) Upon the vacating of the premises for termination of the lease, *if the landlord does not intend to impose a claim on the security deposit,* the landlord shall have 15 days to return the security deposit together with interest if otherwise required, or *the landlord shall have 30 days* ~~in which~~ to give the tenant written notice by certified mail to the tenant's last known mailing address of his or her intention to impose a claim on the deposit and the reason for imposing the claim. The notice shall contain a statement in substantially the following form:

This is a notice of my intention to impose a claim for damages in the amount of . . . . upon your security deposit, due to . . . . . It is sent to you as required by s. 83.49(3), Florida Statutes. You are hereby notified that you must object in writing to this deduction from your security deposit within 15 days from the time you receive this notice or I will be authorized to deduct my claim from your security deposit. Your objection must be sent to . . .(landlord's address). . ..

If the landlord fails to give the required notice within the *30-day* ~~15-day~~ period, he or she forfeits the right to impose a claim upon the security deposit.

(b) Unless the tenant objects to the imposition of the landlord's claim or the amount thereof within 15 days after receipt of the landlord's notice of intention to impose a claim, the landlord may then deduct the amount of his or her claim and shall remit the balance of the deposit to the tenant within 30 days after the date of the notice of intention to impose a claim for damages.

(c) If either party institutes an action in a court of competent jurisdiction to adjudicate the party's right to the security deposit, the prevailing party is entitled to receive his or her court costs plus a reasonable fee for his or her attorney. The court shall advance the cause on the calendar.

(d) Compliance with this section by an individual or business entity authorized to conduct business in this state, including Florida-licensed real estate brokers and salespersons, shall constitute compliance with all other relevant Florida Statutes pertaining to security deposits held pursuant to a rental agreement or other landlord-tenant relationship. Enforcement personnel shall look solely to this section to determine compliance. This section prevails over any conflicting provisions in chapter 475 and in other sections of the Florida Statutes, and shall operate to permit licensed real estate brokers to disburse security deposits and deposit money without having to comply with the notice and settlement procedures contained in s. 475.25(1)(d).

Section 2. Subsection (3) of section 83.67, Florida Statutes, is amended to read:

83.67 Prohibited practices.—

(3) No landlord of any dwelling unit governed by this part shall remove the outside doors, locks, roof, walls, or windows of the unit except for purposes of maintenance, repair, or replacement; nor shall the landlord remove the tenant's personal property from the dwelling unit unless said action is taken after surrender, abandonment, or a lawful eviction. If provided in the rental agreement or a written agreement separate from the rental agreement, upon surrender or abandonment by the tenant, the landlord *is not required to comply with s. 715.104 and is* ~~shall~~ not ~~be~~ liable or responsible for storage or disposition of the tenant's personal property; if provided in the rental agreement there *must* ~~shall~~ be printed or clearly stamped on such rental agreement a legend in substantially the following form:

BY SIGNING THIS RENTAL AGREEMENT THE TENANT AGREES THAT UPON SURRENDER OR ABANDONMENT, AS DEFINED BY *CHAPTER 83,* ~~THE~~ FLORIDA STATUTES, THE LANDLORD SHALL NOT BE LIABLE OR RESPONSIBLE FOR STORAGE OR DISPOSITION OF THE TENANT'S PERSONAL PROPERTY.

For the purposes of this section, abandonment shall be as set forth in s. 83.59(3)(c).

Section 3. Section 715.105, Florida Statutes, is amended to read:

715.105 Form of notice to former tenant.—

(1) A notice to the former tenant which is in substantially the following form satisfies the requirements of s. 715.104:

Notice of Right to Reclaim Abandoned Property

To: . . .(Name of former tenant). . .
. . .(Address of former tenant). . .

When you vacated the premises at . . .(address of premises, including room or apartment number, if any). . ., the following personal property remained: . . .(insert description of personal property). . ..

You may claim this property at . . .(address where property may be claimed). . ..

Unless you pay the reasonable costs of storage and advertising, if any, for all the above-described property and take possession of the property which you claim, not later than . . .(insert date not fewer than 10 days after notice is personally delivered or, if mailed, not fewer than 15 days after notice is deposited in the mail). . ., this property may be disposed of pursuant to s. 715.109.

(Insert here the statement required by subsection (2))

Dated:. . . . . . .(Signature of landlord). . .

. . .(Type or print name of landlord). . .

. . .(Telephone number). . .

. . .(Address). . .

(2) The notice set forth in subsection (1) shall also contain one of the following statements:

(a) "If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the costs of storage, advertising, and sale are deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within 1 year after the county receives the money."

(b) "Because this property is believed to be worth less than *$500* ~~$250~~, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated above."

Section 4. Section 715.106, Florida Statutes, is amended to read:

715.106 Form of notice to owner other than former tenant.—

(1) A notice which is in substantially the following form given to a person who is not the former tenant and whom the landlord reasonably believes to be the owner of any of the abandoned personal property satisfies the requirements of s. 715.104:

Notice of Right to Reclaim Abandoned Property

To: . . .(Name). . .
. . .(Address). . .

When . . .(name of former tenant). . . vacated the premises at . . .(address of premises, including room or apartment number, if any). . ., the following personal property remained: . . .(insert description of personal property). . ..

If you own any of this property, you may claim it at . . .(address where property may be claimed). . .. Unless you pay the reasonable costs of storage and advertising, if any, and take possession of the property to which you are entitled, not later than . . .(insert date not fewer than 10 days after notice is personally delivered or, if mailed, not fewer than 15 days after notice is deposited in the mail). . ., this property may be disposed of pursuant to s. 715.109.

(Insert here the statement required by subsection (2))

Dated:. . . . . .(Signature of landlord). . .

. . .(Type or print name of landlord). . .

. . .(Telephone number). . .

. . .(Address). . .

(2) The notice set forth in subsection (1) shall also contain one of the following statements:

(a) "If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the costs of storage, advertising, and sale are deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within 1 year after the county receives the money."

(b) "Because this property is believed to be worth less than *$500* ~~$250~~, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated above."

Section 5. Subsection (1) of section 715.109, Florida Statutes, is amended to read:

715.109 Sale or disposition of abandoned property.—

(1) If the personal property described in the notice is not released pursuant to s. 715.108, it shall be sold at public sale by competitive bidding. However, if the landlord reasonably believes that the total resale value of the property not released is less than *$500* ~~$250~~, she or he may retain such property for her or his own use or dispose of it in any manner she or he chooses. Nothing in this section shall be construed to preclude the landlord or tenant from bidding on the property at the public sale. The successful bidder's title is subject to ownership rights, liens, and security interests which have priority by law.

Section 6. *(1)(a) Any member of the United States Armed Forces who is required to move pursuant to permanent change of station orders to depart 35 miles or more from the location of a rental premises or who is prematurely or involuntarily discharged or released from active duty with the United States Armed Forces may terminate his or her rental agreement by providing the landlord with a written notice of termination to be effective on the date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord must be accompanied by either a copy of the official military orders or a written verification signed by the member's commanding officer.*

(b) In the event a member of the United States Armed Forces dies during active duty, an adult member of his immediate family may terminate his rental agreement by providing the landlord with a written notice of termination to be effective on the date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord must be accompanied by either a copy of the official military orders or a written verification signed by the member's Commanding Officer.

(2) Upon termination of a rental agreement under this section, the tenant is liable for the rent due under the rental agreement prorated to the effective date of the termination payable at such time as would have otherwise been required by the terms of the rental agreement. The tenant is not liable for any other rent or damages due to the early termination of the tenancy except the liquidated damages provided in this section. If a tenant terminates the rental agreement pursuant to this section 14 or more days prior to occupancy, no damages or penalties of any kind are due.

(3) In consideration of early termination of the rental agreement, the tenant is liable to the landlord for liquidated damages provided the tenant has completed less than 9 months of the tenancy and the landlord has suffered actual damages due to loss of the tenancy. The liquidated damages must be no greater than 1 month's rent if the tenant has completed less than 6 months of the tenancy as of the effective date of termination, or one-half of 1 month's rent if the tenant has completed at least 6 but not less than 9 months of the tenancy as of the effective date of termination.

(4) The provisions of this section may not be waived or modified by the agreement of the parties under any circumstances.

Section 7. Subsection (13) is added to section 475.011, Florida Statutes, to read:

475.011 Exemptions.—This part does not apply to:

(13) Any property management firm or any owner of an apartment complex for the act of paying a finder's fee or referral fee to an unlicensed person who is a tenant in such apartment complex provided the value of the fee does not exceed $50 per transaction. Nothing in this subsection authorizes an unlicensed person to advertise or otherwise promote the person's services in procuring or assisting in procuring prospective lessees or tenants of apartment units. For purposes of this subsection, "finder's fee" or "referral fee" means a fee paid, credit towards rent, or some other thing of value provided to a person for introducing or arranging an introduction between parties to a transaction involving the rental or lease of an apartment unit. It is a violation of s. 475.25(1)(h) and punishable under s. 475.42 for a property management firm or any owner of an apartment complex to pay a finder's fee or a referral fee to an unlicensed person unless expressly authorized by this subsection.

And the title is amended as follows:

On page 9, lines 15 through 30, of the amendment, remove all of said lines and

insert: amending s. 83.49, F.S.; increasing the time period within which a landlord must notify a tenant of the intention to impose a claim on a security deposit; amending s. 83.67, F.S.; exempting certain landlords from a requirement to give notice to former tenants regarding personal property; amending ss. 715.105, 715.106, and 715.109, F.S.; increasing the value of abandoned personal property that may be kept, sold, or destroyed by a landlord; conforming notice provisions; providing for termination of a rental agreement by a member of the United States Armed Forces; amending s. 475.011, F.S.; providing an additional exemption for certain activities; providing an effective date.

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

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

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

HB 1865—A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges in specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges in specified county courts; providing for appointment by the Governor; providing an effective date.

—was read the second time by title.

Representative(s) Ball offered the following:

(Amendment Bar Code: 255803)

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

and insert in lieu thereof:

Section 1. Subsections (1), (2), (4), (5), (6), (7), (9), (10), (11), (13), (15), (17), (18), and (20) of section 26.031, Florida Statutes, are amended to read:

26.031 Judicial circuits; number of judges.—The number of circuit judges in each circuit shall be as follows:

JUDICIAL CIRCUIT	TOTAL
(1) First	*21* ~~20~~
(2) Second	*15* ~~13~~
(4) Fourth	*31* ~~30~~
(5) Fifth	*23* ~~22~~
(6) Sixth	*40* ~~39~~
(7) Seventh	*23* ~~22~~
(9) Ninth	*36* ~~35~~
(10) Tenth	*20* ~~19~~
(11) Eleventh	*72* ~~71~~
(13) Thirteenth	*36* ~~35~~
(15) Fifteenth	*33* ~~32~~
(17) Seventeenth	*50* ~~49~~
(18) Eighteenth	*23* ~~22~~
(20) Twentieth	*22* ~~21~~

Section 2. Current subsections (5), (6), (16), (29), (36), (48), and (52), of section 34.022, Florida Statutes, are amended, current subsection (13) of said section is renumbered as subsection (43) and amended, and subsections (14) through (43) of said section are renumbered as subsections (13) through (42), respectively, to read:

34.022 Number of county court judges for each county.—The number of county court judges in each county shall be as follows:

COUNTY	TOTAL
(5) Brevard	*8* ~~7~~
(6) Broward	*26* ~~25~~
(15)~~(16)~~ Duval	*15* ~~14~~
(28)~~(29)~~ Hillsborough	*15* ~~14~~
(35)~~(36)~~ Lee	*7* ~~6~~
(43)~~(13)~~ *Miami-Dade* ~~Dade~~	41
(48) Orange	*15* ~~14~~
(52) Pinellas	*14* ~~13~~

Section 3. *The judges filling new offices created by this act shall be appointed by the Governor and shall take office for a term beginning on January 2, 2002.*

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges in specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges in specified county courts; providing for appointment by the Governor; providing an effective date.

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

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

HB 1153 was taken up. On motion by Rep. Harrell, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 684, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Health, Aging and Long-Term Care and Senator Cowin and others—

CS for SB 684—A bill to be entitled An act relating to organ transplantation; providing for the Agency for Health Care Administration to create the Organ Transplant Task Force to study organ transplantation programs; requiring the task force to study and make recommendations on the necessity of the issuance of certificates of need for such programs and funding for organ transplantation; providing a date for the task force to report to the Governor and the Legislature; providing an effective date.

—was taken up, read the first time by title, and substituted for HB 1153. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Harrell, the rules were waived and CS for SB 684 was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

Special Orders

Special Order Calendar

CS/HB 997—A bill to be entitled An act relating to persons with disabilities; creating s. 413.402, F.S.; directing the Florida Association of Centers for Independent Living to develop a personal care attendant pilot program to serve persons with spinal cord injuries; providing for memorandums of understanding with specified entities; providing eligibility for pilot program participation; providing for selection and training of participants and personal care attendants; providing for assessment of participants for work-related training programs; providing for development of a plan for program implementation; requiring a report to the Legislature; providing for implementation on a specified date; directing the Department of Revenue to develop and implement a tax collection enforcement diversion program; providing for coordination with the Florida Association of Centers for Independent Living, the Florida Prosecuting Attorneys Association, and the state attorneys' offices; providing for deposit and use of funds collected; directing the Revenue Estimating Conference to make certain annual projections; providing an appropriation; providing an effective date.

—was read the second time by title.

Representative(s) Littlefield offered the following:

(Amendment Bar Code: 904033)

Amendment 1 (with title amendment)—On page 4, between lines 26 and 27, of the bill

insert:

Section 3. Section 18 of chapter 99-144, Laws of Florida, is amended to read:

Section 18. From the lump sum appropriated for developmental services in the 1999-2000 General Appropriations Act, the Department

of Children and Family Services shall design a system of providing services for persons with developmental disabilities which provides a consumer-directed, choice-based system. The department shall institute at least one, but not more than three, differently structured pilot programs to test a payment model in which the consumer controls the money that is available for his or her care. The department shall report its progress under this section to the appropriate legislative committees by December 1, 2000, ~~and~~ December 1, 2001*, and December 1, 2002*. This section is repealed July 1, *2003* ~~2002~~, and shall be reviewed by the Legislature prior to that date.

And the title is amended as follows:

On page 1, line 26,

after the semicolon insert: amending s. 18 of ch. 99-144, Laws of Florida; extending repeal date of a developmental disabilities pilot program; requiring an additional report;

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

Representative(s) Littlefield offered the following:

(Amendment Bar Code: 902433)

Amendment 2—On page 5, line 2, of the bill

after the period insert: *The initial $50,000 from each of the pilot counties deposited with The Florida Endowment Foundation for Vocational Rehabilitation shall be used to repay the $250,000 to the Brain and Spinal Cord Injury Program Trust Fund.*

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

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

CS/HB 1219—A bill to be entitled An act relating to insurance agents; amending s. 624.318, F.S.; requiring maintenance of separate records relating to insurance products and transactions; amending s. 626.112, F.S.; describing activities which constitute the solicitation of insurance requiring licensure as an insurance agent; prohibiting certain referral payments or receipts of payments; amending s. 626.171, F.S.; revising agent application requirements; amending s. 626.181, F.S.; extending a period of eligibility for reappointment; creating s. 626.202, F.S.; requiring fingerprinting of certain persons; amending s. 626.431, F.S.; extending a period of eligibility for reappointment; amending s. 626.5715, F.S.; applying requirements of the Florida Insurance Code equally to all insurance transactions; creating s. 626.9531, F.S.; requiring identification of insurers, agents, and insurance contracts; amending s. 626.541, F.S.; revising requirements for notification of name and information change; amending s. 626.601, F.S.; deleting a limitation on a confidentiality provision; amending 626.611, F.S.; prohibiting the sale of certain unregistered securities; amending ss. 626.741, 626.792, and 626.835, F.S.; limiting authority of certain nonresident licenses; amending ss. 626.927 and 626.8427, F.S.; revising certain time provisions relating to licensure; amending s. 626.872, F.S.; clarifying a temporary license loss adjustment provision; amending s. 626.856, F.S.; revising a definition; amending s. 626.873, F.S.; clarifying application of certain adjuster provisions; amending s. 626.521, F.S.; revising certain information reporting requirements; amending ss. 648.315, 648.38, and 648.384, F.S.; extending a period of eligibility for reappointment; repealing s. 624.501(11) and (23), F.S., relating to appointment fees for vending machines and health care risk managers; providing an effective date.

—was read the second time by title.

Representative(s) Brown offered the following:

(Amendment Bar Code: 201029)

Amendment 1—On page 4, line 9,
remove from the bill: *has entered into or*

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

Representative(s) Brown offered the following:

(Amendment Bar Code: 935499)

Amendment 2 (with title amendment)—On page 18, lines 30 and 31,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 25. Section 626.9651, Florida Statutes, is created to read:

626.9651 Privacy.—The department shall adopt rules consistent with other provisions of the Insurance Code to govern the use of a consumer's nonpublic personal financial and health information. These rules shall be based on, consistent with, and not more restrictive than the National Association of Insurance Commissioners' Privacy of Consumer Financial and Health Information Regulation adopted September 26, 2000, by the National Association of Insurance Commissioners, provided, however, the rules shall permit the use and disclosure of nonpublic personal health information for scientific, medical, or public policy research in accordance with federal law. In addition, these rules shall be consistent with, and not more restrictive than, the standards contained in Title V of the Gramm-Leach-Bliley Act of 1999 (Pub. L. No. 106-102). Any health insurer or health maintenance organization determined by the department to be in compliance with, or to be actively undertaking compliance with, the consumer privacy protection rules promulgated by the United States Department of Health and Human Services, in conformance with the Health Insurance Portability and Affordability Act, shall be deemed in compliance with this section. This section shall take effect July 1, 2001.

Section 26. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2,
remove from the title of the bill: agents

and insert in lieu thereof: creating s. 626.9651, F.S.; directing the department to adopt rules to govern the use of a consumer's nonpublic personal financial and health information by health insurers and health maintenance organizations; providing standards governing the rules;

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

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

On motion by Rep. Goodlette, the House returned to consideration of HB 1601, which was temporarily postponed earlier today.

HB 1601 was taken up. On motion by Rep. Andrews, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1226, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Commerce and Economic Opportunities and Senator Holzendorf—

CS for SB 1226—A bill to be entitled An act relating to workforce development; amending s. 445.004, F.S.; specifying an additional member of the board of directors of Workforce Florida, Inc.; requiring certain funds to be expended for after-school care programs; prohibiting certain uses of such funds; prescribing eligibility criteria for certain organizations providing such programs; amending s. 445.007, F.S.; providing legislative intent relating to involving certain persons in

board activities; providing legislative findings and intent; creating the Digital Divide Council in the State Technology Office; specifying membership; providing for terms, filling vacancies, and compensation; providing for council meetings and officers; requiring the State Technology Office to provide administrative and technical support; providing powers and duties of the council; authorizing design and implementation of certain programs; providing program objectives and goals; requiring the council to monitor, review, and assess program performances; requiring reports; providing an effective date.

—was taken up, read the first time by title, and substituted for HB 1601. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Andrews, the rules were waived and CS for SB 1226 was read the second time by title.

Representative(s) Byrd, Jennings, and Melvin offered the following:

(Amendment Bar Code: 902973)

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

and insert in lieu thereof:

Section 1. Paragraph (a) of subsection (3) and paragraph (a) of subsection (10) of section 445.004, Florida Statutes, are amended to read:

445.004 Workforce Florida, Inc.; creation; purpose; membership; duties and powers.—

(3)(a) Workforce Florida, Inc., shall be governed by a board of directors, the number of directors to be determined by the Governor, whose membership and appointment must be consistent with Pub. L. No. 105-220, Title I, s. 111(b), and contain one member representing the licensed nonpublic postsecondary educational institutions authorized as individual training account providers, one member from the staffing service industry, *at least one member who is a current or former recipient of welfare transition services as defined in s. 445.002(3) or workforce services as provided in s. 445.009(1),* and five representatives of organized labor who shall be appointed by the Governor. Notwithstanding s. 114.05(1)(f), the Governor may appoint remaining members to Workforce Florida, Inc., from the current Workforce Development Board and the WAGES Program State Board of Directors, established pursuant to chapter 96-175, Laws of Florida, to serve on the reconstituted board. By July 1, 2000, the Workforce Development Board will provide to the Governor a transition plan to incorporate the changes required by this act and Pub. L. No. 105-220, specifying the manner of changes to the board. This plan shall govern the transition, unless otherwise notified by the Governor. The importance of minority, gender, and geographic representation shall be considered when making appointments to the board.

(10) The workforce development strategy for the state shall be designed by Workforce Florida, Inc., and shall be centered around the strategies of First Jobs/First Wages, Better Jobs/Better Wages, and High Skills/High Wages.

(a) First Jobs/First Wages is the state's strategy to promote successful entry into the workforce through education and workplace experience that lead to self-sufficiency and career advancement. The components of the strategy include efforts that enlist business, education, and community support for students to achieve long-term career goals, ensuring that young people have the academic and occupational skills required to succeed in the workplace. *A minimum of 15 percent of all Workforce Investment Act youth services funds shall be expended for after-school care programs, through contracts with qualified community-based organizations and faith–based organizations, on an equal basis with other private organizations, to provide after-school care programs to eligible children 14 through 18 years of age. These programs shall include academic tutoring, mentoring, and other appropriate services. Similar services may be provided for eligible children 6 through 13 years of age using Temporary Assistance for Needy Families funds. To provide after–school care programs under this paragraph, a community–based organization or a faith–based organization must be a nonprofit organization that holds a current exemption from federal taxation under s. 501(c)(3) or (4) of the Internal Revenue Code or must be a religious organization that is not required to apply for recognition of its exemption from federal taxation under s. 501(c)(3) of the Internal Revenue Code.*

Section 2. Subsection (1) of section 445.007, Florida Statutes, is amended to read:

445.007 Regional workforce boards.—

(1) One regional workforce board shall be appointed in each designated service delivery area and shall serve as the local workforce investment board pursuant to Pub. L. No. 105-220. The membership of the board shall be consistent with Pub. L. No. 105-220, Title I, s. 117(b), and contain one representative from a nonpublic postsecondary educational institution that is an authorized individual training account provider within the region and confers certificates and diplomas, one representative from a nonpublic postsecondary educational institution that is an authorized individual training account provider within the region and confers degrees, and three representatives of organized labor. Individuals serving as members of regional workforce development boards or local WAGES coalitions, as of June 30, 2000, are eligible for appointment to regional workforce boards, pursuant to this section. *It is the intent of the Legislature that, whenever possible and to the greatest extent practicable, membership of a regional workforce board include persons who are current or former recipients of welfare transition assistance as defined in s. 445.002(3) or workforce services as provided in s. 445.009(1), or that such persons be included as ex officio members of the board or of committees organized by the board.* The importance of minority and gender representation shall be considered when making appointments to the board. If the regional workforce board enters into a contract with an organization or individual represented on the board of directors, the contract must be approved by a two-thirds vote of the entire board, and the board member who could benefit financially from the transaction must abstain from voting on the contract. A board member must disclose any such conflict in a manner that is consistent with the procedures outlined in s. 112.3143.

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

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: An act relating to workforce development; amending s. 445.004, F.S.; specifying an additional member of the board of directors of Workforce Florida, Inc.; requiring certain funds to be expended for after-school care programs; prescribing eligibility criteria for certain organizations providing such programs; amending s. 445.007, F.S.; providing legislative intent relating to involving certain persons in board activities; providing an effective date.

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

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

Special Orders

Special Order Calendar

HB 1205 was taken up. On motion by Rep. Diaz-Balart, the rules were waived and SB 708 was substituted for HB 1205. Under Rule 5.15, the House bill was laid on the table and—

SB 708—A bill to be entitled An act relating to education; amending s. 231.40, F.S.; limiting the amount of pay certain employees of district school systems may receive for unused sick leave upon termination of employment; providing conditions on the use of sick leave; amending s. 231.481, F.S.; limiting the amount of pay certain employees of district school systems may earn for unused vacation leave upon termination of employment; amending s. 240.343, F.S.; limiting the amount of pay certain employees of community college districts may receive for unused sick leave upon termination of employment; providing conditions on the use of sick leave; providing for payment to the employee's beneficiary under specified conditions; providing an effective date.

—was read the second time by title.

Rep. McGriff moved that, under Rule 12.2(c), a late-filed amendment be allowed for consideration, which was not agreed to.

Rep. Romeo moved that, under Rule 12.2(c), a late-filed amendment be allowed for consideration, which was not agreed to.

Rep. Richardson moved that, under Rule 12.2(c), a late-filed amendment be allowed for consideration, which was not agreed to.

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

HB 1221—A bill to be entitled An act relating to water resources; amending s. 373.083, F.S.; authorizing water management districts to solicit donations; amending s. 373.085, F.S.; authorizing water management districts to establish permit durations for works connecting to or using the works or land of the district; amending s. 373.093, F.S.; authorizing water management districts to lease certain personal property; creating s. 373.608, F.S.; authorizing water management districts to obtain and enforce patents, copyrights, and trademarks on work products of the district; providing for rules; creating s. 373.610, F.S.; authorizing water management districts to suspend contractors who have defaulted on contracts; providing procedure; providing for rules; creating s. 373.611, F.S.; authorizing water management districts to enter into contracts to limit or alter the measure of damages recoverable from a vendor; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources & Environmental Protection offered the following:

(Amendment Bar Code: 471365)

Amendment 1 (with title amendment)—On page 2, lines 6 through 27
remove from the bill: all of said lines

And the title is amended as follows:

On page 1, lines 4 through 8
remove from the title of the bill: all of said lines

and insert in lieu thereof: districts to solicit donations; amending s. 373.093, F.S.;

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

The Committee on General Government Appropriations offered the following:

(Amendment Bar Code: 371757)

Amendment 2—On page 4, lines 12-26
remove from the bill: all of said lines

and insert in lieu thereof:

373.610 Defaulting vendors and contractors.—

The district may suspend a contractor from doing work with the district, on a temporary or permanent basis, any contractor who has materially breached its contract with the district. The district shall adopt rules to administer the provisions of this section and shall have the authority to amend such rules as it deems appropriate.

Rep. Cantens moved the adoption of the amendment.

Representative(s) Cantens offered the following:

(Amendment Bar Code: 860835)

Substitute Amendment 2—On page 4, lines 12 through 26 of the bill
remove from the bill: all of said lines

and insert in lieu thereof:

373.610 Defaulting vendors and contractors.—The district may suspend a contractor on a temporary or permanent basis, from doing work with the district if such contractor has materially breached its contract with the district. The district shall adopt rules to administer the provisions of this section to specify the circumstances and conditions that constitute a materially breached contract and conditions that constitute the period for temporary or permanent suspension and for reinstatement.

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

Representative(s) Bennett offered the following:

(Amendment Bar Code: 214439)

Amendment 3 (with title amendment)—On page 5, between lines 3 and 4,

insert:

Section 7. Subsection (7) of section 373.0693, Florida Statutes, is amended to read:

373.0693 Basins; basin boards.—

(7) At 11:59 p.m. on December 31, 1976, the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District, which is annexed to the Southwest Florida Water Management District by change of its boundaries pursuant to chapter 76-243, Laws of Florida, shall be formed into a subdistrict or basin of the Southwest Florida Water Management District, subject to the same provisions as the other basins in such district. Such subdistrict shall be designated initially as the Manasota Basin. The members of the governing board of the Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water Management District shall become members of the governing board of the Manasota Basin of the Southwest Florida Water Management District. *Notwithstanding other provisions in this section, beginning on July 1, 2001, the membership of the Manasota Basin Board shall be comprised of three members from Manatee County and three members from Sarasota County. Matters relating to tie votes shall be resolved pursuant to subsection (6) by the ex officio chair designated by the governing board to vote in case of a tie vote.*

And the title is amended as follows:

On page 1, line 21, after the semicolon

insert: amending s. 373.0693, F.S.; providing for membership on the Manasota Basin Board and for the resolution of tie votes;

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

Representative(s) Cantens offered the following:

(Amendment Bar Code: 800757)

Amendment 4 (with title amendment)—On page 5 between lines 3 and 4

insert:

Section 7. Paragraph (a) of subsection (1) of section 73.015, Florida Statutes, is amended to read:

73.015 Presuit negotiation.—

(1) Effective July 1, 2000, before an eminent domain proceeding is brought under this chapter or chapter 74, the condemning authority must attempt to negotiate in good faith with the fee owner of the parcel to be acquired, must provide the fee owner with a written offer and, if requested, a copy of the appraisal upon which the offer is based, and must attempt to reach an agreement regarding the amount of compensation to be paid for the parcel.

(a) *No later than the time the initial written or oral offer of compensation for acquisition is made to the fee owner,* ~~At the inception~~

~~of negotiation for acquisition,~~ the condemning authority must notify the fee owner of the following:

1. That all or a portion of his or her property is necessary for a project.

2. The nature of the project for which the parcel is considered necessary, and the parcel designation of the property to be acquired.

3. That, within 15 business days after receipt of a request by the fee owner, the condemning authority will provide a copy of the appraisal report upon which the offer to the fee owner is based; copies, to the extent prepared, of the right-of-way maps or other documents that depict the proposed taking; and copies, to the extent prepared, of the construction plans that depict project improvements to be constructed on the property taken and improvements to be constructed adjacent to the remaining property, including, but not limited to, plan, profile, cross-section, drainage, and pavement marking sheets, and driveway connection detail. The condemning authority shall provide any additional plan sheets within 15 days of request.

4. The fee owner's statutory rights under ss. 73.091 and 73.092*, or alternatively provide copies of these provisions of law*.

5. The fee owner's rights and responsibilities under paragraphs (b) and (c) and subsection (4)*, or alternatively provide copies of these provisions of law*.

Section 8. Subsections (1) and (3) of section 270.11, Florida Statutes, are amended to read:

270.11 Contracts for sale of public lands to reserve certain mineral rights; prohibition on exercise of right of entry in certain cases.—

(1) *Unless the applicable agency chooses not to reserve such interest and except* ~~Except~~ as otherwise provided by law, in all contracts and deeds for the sale of land executed by the Board of Trustees of the Internal Improvement Trust Fund or by any local government, water management district, or other agency of the state, there shall be reserved for such local government, water management district, other agency of the state, or the board of trustees and its successors an undivided three-fourths interest in, and title in and to an undivided three-fourths interest in, all the phosphate, minerals, and metals that are or may be in, on, or under the said land and an undivided one-half interest in all the petroleum that is or may be in, on, or under said land with the privilege to mine and develop the same.

(3) A local government, water management district, or agency of the state may, at its discretion, sell or release ~~such~~ reserved interest in any parcel of land, except that such sale or release shall be made upon petition of the purchaser for such interest and *with* ~~upon submission by the local government, water management district, or agency of the state which owns the parcel of~~ a statement of reasons justifying such sale or release.

Section 9. Subsection (4) of section 373.056, Florida Statutes, is amended to read:

373.056 State agencies, counties, drainage districts, municipalities, or governmental agencies or public corporations authorized to convey or receive land from water management districts.—

(4) Any water management district within this chapter shall have authority to convey *or lease* to any *governmental entity,* other agency described herein or to the United States Government, including its agencies, land or rights in land owned by such district not required for its purposes under such terms and conditions as the governing board of such district may determine. *In addition to other general law authorizing the grant of utility easements, any water management district may grant utility easements on land owned by such district to any private or public utility for the limited purpose of obtaining utility service to district property under such terms and conditions as the governing board of such district may determine.*

Section 10. Section 373.096, Florida Statutes, is amended to read:

373.096 Releases.—The governing board of the district may release any ~~canal~~ easement, reservation or right-of-way interests, conveyed to it for which it has no present or apparent future use under terms and conditions determined by the board.

Section 11. Subsection (2) of section 373.093, Florida Statutes, is amended to read:

373.093 Lease of lands or interest in land.—The governing board of the district may lease any lands or interest in land, including but not limited to oil and mineral rights, to which the district has acquired title, or to which it may hereafter acquire title in the following manner, as long as the lease is consistent with the purposes for which the lands or any interest in land was acquired:

(2) Before leasing any land, or interest in land including but not limited to oil and mineral rights, the district shall cause a notice of intention to lease to be published in a newspaper published in the county in which said land is situated and such other places as the board may determine once each week for 3 successive weeks (three insertions being sufficient), the first publication of which shall be not less than 30 nor more than *90* ~~45~~ days prior to *the date the board executes the* ~~any~~ lease, which said notice shall set forth the time and place of leasing and a description of the lands to be leased.

Section 12. Subsection (2) and paragraph (a) of subsection (3) of section 373.139, Florida Statutes, are amended to read:

373.139 Acquisition of real property.—

(2) The governing board of the district is empowered and authorized to acquire in fee or less than fee title to real property, ~~and~~ easements *and other interests or rights* therein, by purchase, gift, devise, lease, eminent domain, or otherwise for flood control, water storage, water management, conservation and protection of water resources, aquifer recharge, water resource and water supply development, and preservation of wetlands, streams, and lakes. Eminent domain powers may be used only for acquiring real property for flood control and water storage or for curing title defects or encumbrances to real property *owned by the district or* to be acquired *by the district* from a willing seller.

(3) The initial 5-year work plan and any subsequent modifications or additions thereto shall be adopted by each water management district after a public hearing. Each water management district shall provide at least 14 days' advance notice of the hearing date and shall separately notify each county commission within which a proposed work plan project or project modification or addition is located of the hearing date.

(a) ~~Title information,~~ Appraisal reports, offers, and counteroffers are confidential and exempt from the provisions of s. 119.07(1) until an option contract is executed or, if no option contract is executed, until 30 days before a contract or agreement for purchase is considered for approval by the governing board. However, each district may, at its discretion, disclose appraisal reports to private landowners during negotiations for acquisitions using alternatives to fee simple techniques, if the district determines that disclosure of such reports will bring the proposed acquisition to closure. In the event that negotiation is terminated by the district, the title information, appraisal report, offers, and counteroffers shall become available pursuant to s. 119.07(1). Notwithstanding the provisions of this section and s. 259.041, a district and the Division of State Lands may share and disclose title information, appraisal reports, appraisal information, offers, and counteroffers when joint acquisition of property is contemplated. A district and the Division of State Lands shall maintain the confidentiality of such title information, appraisal reports, appraisal information, offers, and counteroffers in conformance with this section and s. 259.041, except in those cases in which a district and the division have exercised discretion to disclose such information. *A district may disclose appraisal information, offers, and counteroffers to a third party who has entered into a contractual agreement with the district to work with or on the behalf of or to assist the district in connection with land acquisitions. The third party shall maintain the confidentiality of such information in conformance with this section. In addition, a district may*

use, as its own, appraisals obtained by a third party provided the appraiser is selected from the district's list of approved appraisers and the appraisal is reviewed and approved by the district.

Section 13. Section 373.1401, Florida Statutes, is amended to read:

373.1401 Management of lands of water management districts.—*In addition to provisions contained in s. 373.1391(1) for soil and water conservation districts, the* ~~The~~ governing board of each water management district may contract with a *non-governmental person or entity, any* federal or state agency, a county, a municipality, or any other governmental entity, or environmental nonprofit organization to provide for the improvement, management, or maintenance of any real property owned by or under the control of the district.

Section 14. Paragraph (a) of subsection (6) of section 374.984, Florida Statutes, is amended to read:

374.984 Purpose; powers and duties.—It is the purpose and intent of this act that the board perform and do all things which shall be requisite and necessary to comply with the requirements and conditions imposed upon a "local interest" by the Congress of the United States in the several acts authorizing and directing the improvement and maintenance of the Intracoastal Waterway from St. Mary's River to the southernmost boundary of Dade County. Said acts include but are not limited to: the Rivers and Harbors Act approved January 21, 1927, as amended by the River and Harbor Act approved July 3, 1930; the River and Harbor Act of June 20, 1938; and s. 107 of the Federal River and Harbor Act of 1960. Pursuant thereto, the powers of the board shall include, but not be limited to:

(6)(a) *Contracting directly for, or* entering into agreement from time to time with the district engineer of the Jacksonville, Florida, United States Army Corps of Engineers district, or other *agency or party* ~~duly authorized representative of the United States~~, to contribute toward the cost of dredging performed on the waterway ~~by the United States~~, to construct retaining bulkheads, dikes, and levees, to construct ditches for the control of water discharged by the dredges, and to do all other work and/or things which, in the judgment of the board, shall be proper and necessary to produce economies in meeting the conditions with respect to right-of-way and dredged material management areas imposed upon a "local interest" by the Congress of the United States in the several acts authorizing and directing the improvement, navigability, and maintenance of the Intracoastal Waterway from St. Mary's River to the southernmost boundary of Dade County.

And the title is amended as follows:

On page 1, line 21
remove from the title of the bill: all of said line

insert: damages recoverable from a vendor; amending s. 73.015, F.S.; clarifying time-frame for providing specific information to fee-owners; requiring agencies to provide specified portions of statute to fee-owners; amending s. 270.11, F.S.; providing discretion to water management districts, local governments, board of trustees and other state agencies to determine whether to reserve mineral interests when selling lands; clarifying the types of information to be given by land-owner wanting a release of a reservation; amending s. 373.056, F.S.; granting water management districts the authority to grant utility easements on district-owned land for providing utility service; amending s. 373.093, F.S.; granting additional time to water management districts to provide notification before executing lease agreements; amending s. 373.096, F.S.; providing for release of certain easements, reservations, or right-of-way interests; amending s. 373.139, F.S.; authorizing water management districts to cure title defects after a land sale is executed; allowing water management districts to disclose appraisal information, offers and counter offers to third parties working on the district's behalf; allowing third party appraisals to be used under specific circumstances; amending s. 373.1401, F.S.; allowing water management districts to contract with private entities for management, improvement, or maintenance of land held by the districts; providing an

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

Representative(s) Cantens offered the following:

(Amendment Bar Code: 841563)

Amendment 5 (with title amendment)—On page 5, between lines 3 and 4 of the bill

insert:

Section 7. Section 110.152, Florida Statutes, is amended to read:

110.152 Adoption benefits for state ~~or water management district~~ employees; parental leave.—

(1)(a) Any *full-time or part-time* employee of the state *who is paid from regular salary appropriations and* ~~or of a water management district~~ who adopts a special-needs child, as defined in paragraph (b), is eligible to receive a monetary benefit in the amount of $10,000 per child, $5,000 of which is payable in equal monthly installments over a 2-year period. Any employee of the state ~~or of a water management district~~ who adopts a child *whose permanent custody has been awarded to the Department of Children and Family Services or to a Florida-licensed child-placing agency*, other than a special-needs child as defined in paragraph (b), shall be eligible to receive a monetary benefit in the amount of $5,000 per child, $2,000 of which is payable in equal monthly installments over a 2-year period. *Benefits paid under this subsection to a part-time employee must be prorated based on the employee's full-time-equivalency status at the time of applying for the benefits.*

(b) For purposes of this section, a "special-needs child" is a child whose permanent custody has been awarded to the Department of Children and Family Services or to a Florida-licensed child-placing agency and who is not likely to be adopted because he or she is:

1. Eight years of age or older.

2. A person with a developmental disability.

3. A person with a physical or emotional handicap.

4. Of a minority race or of a racially mixed heritage.

5. A member of a sibling group of any age, provided that two or more members of a sibling group remain together for the purposes of adoption.

(2) An employee of the state ~~or of a water management district~~ who adopts a special-needs child must apply to his or her agency head to obtain the monetary benefit provided in subsection (1). Applications must be on forms approved by the department and must include a certified copy of the final order of adoption naming the applicant as the adoptive parent.

(3) Nothing in this section shall affect the right of any state employee who adopts a special-needs child to receive financial aid for adoption expenses pursuant to s. 409.166 or any other statute that provides financial incentives for the adoption of children.

(4) Any employee of the state ~~or of a water management district~~ who has a child placed in the custody of the employee for adoption, and who continues to reside in the same household as the child placed for adoption, shall be granted parental leave for a period not to exceed 6 months as provided in s. 110.221.

Section 8. Section 110.15201, Florida Statutes, is amended to read:

110.15201 Adoption benefits for state ~~or water management district~~ employees; rulemaking authority.—The Department of Management Services may adopt rules to administer the provisions of this act. *Such rules may provide for an application process such as, but not limited to, an open-enrollment period during which employees may apply for monetary benefits as provided in s. 110.152(1).*

Section 9. Paragraph (c) of subsection (2) of section 215.32, Florida Statutes, is amended to read:

215.32 State funds; segregation.—

(2) The source and use of each of these funds shall be as follows:

(c)1. The Budget Stabilization Fund shall consist of amounts equal to at least 5 percent of net revenue collections for the General Revenue Fund during the last completed fiscal year. The Budget Stabilization Fund's principal balance shall not exceed an amount equal to 10 percent of the last completed fiscal year's net revenue collections for the General Revenue Fund. As used in this paragraph, the term "last completed fiscal year" means the most recently completed fiscal year prior to the regular legislative session at which the Legislature considers the General Appropriations Act for the year in which the transfer to the Budget Stabilization Fund must be made under this paragraph.

2. By September 15 of each year, the Governor shall authorize the Comptroller to transfer, and the Comptroller shall transfer pursuant to appropriations made by law, to the Budget Stabilization Fund the amount of money needed for the balance of that fund to equal the amount specified in subparagraph 1., less any amounts expended and not restored. The moneys needed for this transfer may be appropriated by the Legislature from any funds.

3. Unless otherwise provided in this subparagraph, an expenditure from the Budget Stabilization Fund must be restored pursuant to a restoration schedule that provides for making five equal annual transfers from the General Revenue Fund, beginning in the fiscal year following that in which the expenditure was made. For any Budget Stabilization Fund expenditure, the Legislature may establish by law a different restoration schedule and such change may be made at any time during the restoration period. Moneys are hereby appropriated for transfers pursuant to this subparagraph.

4. The Budget Stabilization Fund and the Working Capital Fund may be used as revolving funds for transfers as provided in s. 18.125; however, any interest earned must be deposited in the General Revenue Fund.

5. The Comptroller and the Department of Management Services shall transfer funds to water management districts to pay eligible water management district employees for all benefits due under s. 373.6065, as long as funds remain available for the program described under s. 100.152.

Section 10. Section 373.6065, Florida Statutes, is created to read:

373.6065 Adoption benefits for water management district employees.—

(1) Any employee of a water management district is eligible to receive monetary benefits for child adoption to the same extent as is an employee of the state, as described in s. 110.152. The employee shall apply for such benefits pursuant to s. 110.15201

(2) The Comptroller and the Department of Management Services shall transfer funds to water management districts to pay eligible water management district employees for these child adoption monetary benefits in accordance with s. 215.32(1)(c)5., as long as funds remain available for the program described under s. 110.152.

(3) Parental leave for eligible water management district employees shall be provided according to the policies and procedures of the individual water management district in existence at the time eligibility is determined.

(4) Each water management district shall develop means of implementing these monetary adoption benefits for water management district employees, consistent with its current practices. Water management district rules, policies, guidelines, or procedures so implemented will remain valid and enforceable as long as they do not conflict with the express terms of s. 110.152.

And the title is amended as follows:

On page 1 line 21
remove from the title of the bill: all of said line

and insert in lieu thereof: damages recoverable from a vendor; amending s. 110.152, F.S.; specifying employees who are entitled to receive such benefits for adopting a special-needs child; deleting references to water management district employees; prescribing the manner of establishing the amount of such benefits; amending s. 110.15201, F.S.; providing that rules for administering such adoption benefits may provide for an application process; deleting a reference to water management district employees; amending s. 215.32, F.S.; requiring the Comptroller and the Department of Management Services to transfer funds to water management districts to pay monetary benefits to water management district employees; creating s. 373.6065, F.S.; providing child-adoption monetary benefits to water management district employees; providing an

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

Representative(s) Cantens offered the following:

(Amendment Bar Code: 854149)

Amendment 6 (with title amendment)—On page 5, between lines 3 and 4 of the bill

insert:

Section 7. Section 373.536, Florida Statutes, is amended to read:

373.536 District budget and hearing thereon.—

(1) *FISCAL YEAR.*—The fiscal year of districts created under the provisions of this chapter shall extend from October 1 of one year through September 30 of the following year.

(2) BUDGET SUBMITTAL.—The budget officer of the district shall, on or before July 15 of each year, submit for consideration by the governing board of the district a tentative budget for the district covering its proposed *operations* ~~operation~~ and *funding* requirements for the ensuing fiscal year.

(3) BUDGET HEARINGS AND WORKSHOPS; NOTICE.—

(a) Unless alternative notice requirements are otherwise provided by law, notice of all budget hearings conducted by the governing board or district staff must be published in a newspaper of general *paid* circulation in each county in which the district lies not less than 5 days nor more than 15 days before the hearing.

(b) Budget workshops conducted for the public and not governed by s. 200.065 must be advertised in a newspaper of general *paid* circulation in the community or area in which the workshop will occur not less than 5 days nor more than 15 days before the workshop.

(c) The tentative budget shall be adopted in accordance with the provisions of s. 200.065; however, if the mailing of the notice of proposed property taxes is delayed beyond September 3 in any county in which the district lies, the district shall advertise its intention to adopt a tentative budget and millage rate, pursuant to s. 200.065(3)(g), in a newspaper of general paid circulation in that county. ~~The budget shall set forth, classified by object and purpose, and by fund if so designated, the proposed expenditures of the district for bonds or other debt, for construction, for acquisition of land, for operation and maintenance of the district works, for the conduct of the affairs of the district generally, and for other purposes, to which may be added an amount to be held as a reserve. District administrative and operating expenses must be identified in the budget and allocated among district programs.~~

~~(2) The budget shall also show the estimated amount which will appear at the beginning of the fiscal year as obligated upon commitments made but uncompleted. There shall be shown the estimated unobligated or net balance which will be on hand at the beginning of the fiscal year, and the estimated amount to be raised by district taxes and from other sources for meeting the requirements of the district.~~

(d)~~(3)~~ As provided in s. 200.065(2)(d), the board shall publish one or more notices of its intention to ~~finally~~ adopt a *final* budget for the district for the ensuing fiscal year. The notice shall appear adjacent to an advertisement *that sets* ~~which shall set~~ forth the tentative budget *in a format meeting the budget summary requirements of s. 129.03(3)(b)* ~~in~~

~~full~~. *The district shall not include expenditures of federal special revenues and state special revenues when preparing the statement required by s. 200.065(3)(l).* The notice and advertisement shall be published in one or more newspapers having a combined general *paid* circulation in *each county* ~~the counties having land~~ in *which* the district *lies*. Districts may include explanatory phrases and examples in budget advertisements published under s. 200.065 to clarify or illustrate the effect that the district budget may have on ad valorem taxes.

(e)~~(4)~~ The hearing *for adoption of* ~~to finally adopt~~ a *final* budget and millage rate shall be by and before the governing board of the district as provided in s. 200.065 and may be continued from day to day until terminated by the board.

(4) BUDGET CONTROLS.—

(a) The final *adopted* budget for the district will thereupon be the operating and fiscal guide for the district for the ensuing year; however, transfers of funds may be made within the budget by action of the governing board at a public meeting of the governing board.

(b) The district shall control its budget, at a minimum, by funds and shall provide to the Executive Office of the Governor a description of its budget control mechanisms.

(c) Should the district receive unanticipated funds after the adoption of the final budget, the final budget may be amended by including such funds, so long as notice of intention to amend is published *in the notice of the governing board meeting at which the amendment will be considered, pursuant to s. 120.525* ~~one time in one or more newspapers qualified to accept legal advertisements having a combined general circulation in the counties in the district~~. The notice shall set forth *a summary of* the proposed amendment ~~and shall be published at least 10 days prior to the public meeting of the board at which the proposed amendment is to be considered~~. However, in the event of a disaster or of an emergency arising to prevent or avert the same, the governing board shall not be limited by the budget but shall have authority to apply such funds as may be available therefor or as may be procured for such purpose.

(5) *TENTATIVE BUDGET CONTENTS AND SUBMISSION; REVIEW AND APPROVAL.—*

(a) The Executive Office of the Governor is authorized to approve or disapprove, in whole or in part, the budget of each water management district and shall analyze each budget as to the adequacy of fiscal resources available to the district and the adequacy of district expenditures related to water supply, including water resource development projects identified in the district's regional water supply plans; water quality; flood protection and floodplain management; and natural systems. This analysis shall be based on the particular needs within each water management district in those four areas of responsibility.

(b) The Executive Office of the Governor and the water management districts shall develop a process to facilitate review and communication regarding water management district budgets, as necessary. Written disapproval of any provision in the tentative budget must be received by the district at least 5 business days prior to the final district budget adoption hearing conducted under s. 200.065(2)(d). If written disapproval of any portion of the budget is not received at least 5 business days prior to the final budget adoption hearing, the governing board may proceed with final adoption. Any provision rejected by the Governor shall not be included in a district's final budget.

(c) Each water management district shall, by August 1 of each year, submit for review a tentative budget to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees with substantive or fiscal jurisdiction over water management districts, *as determined by the President of the Senate or Speaker of the House of Representatives as applicable,* the secretary of the department, and the governing body of each county in which the district has jurisdiction or derives any funds for the operations of the district.

(d) The tentative budget must set forth the proposed expenditures of the district, to which may be added an amount to be held as reserve. The tentative budget must include, but is not limited to, the following information for the preceding fiscal year and the current fiscal year, and the proposed amounts for the upcoming fiscal year, in a standard format prescribed by the Executive Office of the Governor ~~which is generally consistent with the format prescribed by legislative budget instructions for state agencies and the format requirements of s. 216.031~~:

1. *The estimated amount of funds remaining at the beginning of the fiscal year which have been obligated for the payment of outstanding commitments not yet completed.*

2. The estimated amount of unobligated funds or net cash balance on hand at the beginning of the fiscal year, and the estimated amount of funds to be raised by district taxes or received from other sources to meet the requirements of the district.

3. The millage rates and the percentage increase above the rolled-back rate, together with a summary of the reasons the increase is required, and the percentage increase in taxable value resulting from new construction *within the district.*~~;~~

4.~~2.~~ The *salaries* ~~salary~~ and benefits, expenses, operating capital outlay, number of authorized positions, and other personal services for the following program areas *of the district*~~, including a separate section for lobbying, intergovernmental relations, and advertising~~:

a. Water resource planning and monitoring;

b. Land acquisition, restoration, and public works;

c. Operation and maintenance of works and lands;

d. Regulation;

e. Outreach for which the information provided must contain a full description and accounting of expenditures for water resources education; public information and public relations, including public service announcements and advertising in any media; and lobbying activities related to local, regional, state and federal governmental affairs, whether incurred by district staff or through contractual services; and

f. Management and administration.

~~a. District management and administration;~~

~~b. Implementation through outreach activities;~~

~~c. Implementation through regulation;~~

~~d. Implementation through acquisition, restoration, and public works;~~

~~e. Implementation through operations and maintenance of lands and works;~~

~~f. Water resources planning and monitoring; and~~

~~g. A full description and accounting of expenditures for lobbying activities relating to local, regional, state, and federal governmental affairs, whether incurred by district staff or through contractual services and all expenditures for public relations, including all expenditures for public service announcements and advertising in any media.~~

In addition to the program areas reported by all water management districts, the South Florida Water Management District shall include in its budget document ~~a~~ separate *sections* ~~section~~ on all costs associated with the Everglades Construction Project *and the Comprehensive Everglades Restoration Plan*.

5.~~3.~~ The total *estimated* amount in the district budget for each area of responsibility listed in *subparagraph 4.* ~~paragraph (a)~~ and for water resource development projects identified in the district's regional water supply plans.

~~4. A 5-year capital improvements plan.~~

6.~~5.~~ A description of each new, expanded, reduced, or eliminated program.

~~6. A proposed 5-year water resource development work program, that describes the district's implementation strategy for the water resource development component of each approved regional water supply plan developed or revised pursuant to s. 373.0361. The work program shall address all the elements of the water resource development component in the district's approved regional water supply plans. The office of the Governor, with the assistance of the department, shall review the proposed work program. The review shall include a written evaluation of its consistency with and furtherance of the district's approved regional water supply plans, and adequacy of proposed expenditures. As part of the review, the Executive Office of the Governor and the department shall afford to all interested parties the opportunity to provide written comments on each district's proposed work program. At least 7 days prior to the adoption of its final budget, the governing board shall state in writing to the Executive Office of the Governor which changes recommended in the evaluation it will incorporate into its work program, or specify the reasons for not incorporating the changes. The office of the Governor shall include the district's responses in the written evaluation and shall submit a copy of the evaluation to the Legislature; and~~

7. The funding sources, including, but not limited to, ad valorem taxes, Surface Water Improvement and Management Program funds, other state funds, federal funds, and user fees and permit fees for each program area.

(e)~~(d)~~ By September 5 of the year in which the budget is submitted, the House and Senate appropriations chairs may transmit to each district comments and objections to the proposed budgets. Each district governing board shall include a response to such comments and objections in the record of the governing board meeting where final adoption of the budget takes place, and the record of this meeting shall be transmitted to the Executive Office of the Governor, the department, and the chairs of the House and Senate appropriations committees.

(f)~~(e)~~ The Executive Office of the Governor shall annually, on or before December 15, file with the Legislature a report that summarizes *its review* ~~the expenditures~~ of the water management *districts' tentative budgets and displays the adopted budget allocations* ~~districts~~ by program area*. The report must identify* ~~and identifies~~ the districts that are not in compliance with the reporting requirements of this section. State funds shall be withheld from a water management district that fails to comply with these reporting requirements.

(6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN; WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

(a) Each district must, by the date specified for each item, furnish copies of the following documents to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees having substantive or fiscal jurisdiction over the districts, as determined by the President or Speaker as applicable, the secretary of the department, and the governing board of each county in which the district has jurisdiction or derives any funds for the operations of the district;

1. The adopted budget, to be furnished within 10 days after its adoption.

2. A financial audit of its accounts and records, to be furnished within 10 days after its acceptance by the governing board. The audit must be conducted in accordance with the provisions of s. 11.45 and the rules adopted thereunder. In addition to the entities named above, the district must provide a copy of the audit to the Auditor General within 10 days after its acceptance by the governing board.

3. A 5-year capital improvements plan, to be furnished within 45 days after the adoption of the final budget. The plan must include expected sources of revenue for planned improvements and must be prepared in a manner comparable to the fixed capital outlay format set forth in s. 216.043.

4. A 5-year water resource development work program to be furnished within 45 days after the adoption of the final budget. The program must describe the district's implementation strategy for the water resource development component of each approved regional water supply plan developed or revised under s. 373.0361. The work program must address all the elements of the water resource development component in the district's approved regional water supply plans. Within 45 days after its submittal, the department shall review the proposed work program and submit its findings, questions, and comments to the district. The review must include a written evaluation of the program's consistency with the furtherance of the district's approved regional water supply plans, and the adequacy of proposed expenditures. As part of the review, the department shall give interested parties the opportunity to provide written comments on each district's proposed work program. Within 60 days after receipt of the department's evaluation, the governing board shall state in writing to the department which changes recommended in the evaluation it will incorporate into its work program or specify the reasons for not incorporating the changes. The department shall include the district's responses in a final evaluation report and shall submit a copy of the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(b) If any entity listed in paragraph (a) provides written comments to the district regarding any document furnished under this subsection, the district must respond to the comments in writing and furnish copies of the comments and written responses to the other entities.

Section 8. Paragraph (b) of subsection (4) of section 373.079, Florida Statutes, is amended to read:

373.079 Members of governing board; oath of office; staff.—

(4)

(b)1. The governing board of each water management district shall employ an inspector general, who shall report directly to the board. However, the governing boards of the Suwannee River Water Management District and the Northwest Florida Water Management District may jointly employ an inspector general, or provide for inspector general services by interagency agreement with a state agency or water management district inspector general.

2. An inspector general must have the qualifications prescribed and perform the applicable duties of state agency inspectors general as provided in s. 20.055.

~~3. Within 45 days of the adoption of the final budget, the governing board shall submit a 5-year capital improvement plan and fiscal report for the district to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Environmental Protection. The capital improvement plan must include expected sources of revenue for planned improvements and shall be prepared in a manner comparable to the fixed capital outlay format set forth in s. 216.043. The fiscal report shall cover the preceding fiscal year and shall include a summary statement of the financial operations of the district.~~

Section 9. Section 373.501, Florida Statutes, is amended to read:

373.501 Appropriation of funds to water management districts.—

(1) The department may allocate to the water management districts, from funds appropriated to the department, such sums as may be deemed necessary to defray the costs of the administrative, regulatory, and other activities of the districts. The governing boards shall submit annual budget requests for such purposes to the department, and the department shall consider such budgets in preparing its budget request for the Legislature.

(2) Funds appropriated by the Legislature for the purpose of funding a specific water management district project shall be transferred to the water management district when the proposed project has been reviewed by the secretary of the pertinent state agency and upon receipt of a governing board resolution requesting such funds.

Section 10. Subsection (11) of section 373.59, Florida Statutes, is amended to read:

373.59 Water Management Lands Trust Fund.—

(11) Notwithstanding any provision of this section to the contrary, ~~and for the 2000-2001 fiscal year only,~~ the governing board of a water management district may request, and the Secretary of Environmental Protection shall release upon such request, moneys allocated to the districts pursuant to subsection (8) for ~~the purpose of carrying out the~~ purposes *consistent with the provisions* of s. 373.0361, *s. 373.0831* ~~s. 375.0831~~, s. 373.139, or ss. 373.451-373.4595 and for legislatively authorized land acquisition and water restoration initiatives. No funds may be used pursuant to this subsection until necessary debt service obligations, requirements for payments in lieu of taxes, and land management obligations that may be required by this chapter are provided for. ~~This subsection is repealed on July 1, 2001~~.

Section 11. *Sections 373.507 and 373.589, Florida Statutes, are repealed.*

And the title is amended as follows:

On page 1, line 21
remove from the title of the bill: all of said line

and insert in lieu thereof: damages recoverable from a vendor;amending s. 373.536, F.S.; revising notice and hearing provisions relating to the adoption of a final budget for the water management districts; specifying to whom a copy of the water management districts' tentative budget must be sent for review; specifying the contents of the tentative budget; requiring the Executive Office of the Governor to file with the Legislature a report summarizing its review of the water management districts' tentative budgets and displaying the adopted budget allocations by program area; requiring the water management districts to submit certain budget documents to specified officials; amending s. 373.079, F.S.; deleting a requirement that the water management districts submit a 5-year capital improvement plan and fiscal report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Environmental Protection; amending s. 373.59, F.S.; providing for the transfer of certain funds; amending s. 373.501, F.S.; providing for the release of moneys from the Water Management Lands Trust Fund; repealing s. 373.507, F.S., relating to postaudits and budgets of water management districts and basins; repealing s. 373.589, F.S., relating to audits of water management districts; providing an

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

On motion by Rep. Cantens, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Cantens offered the following:

(Amendment Bar Code: 711437)

Amendment 7 (with title amendment)—On page 1, line 25,

insert:

Section 1. Paragraph (k) is added to subsection (2) of section 373.1961, Florida Statutes, to read:

373.1961 Water production.—

(2) The Legislature finds that, due to a combination of factors, vastly increased demands have been placed on natural supplies of fresh water, and that, absent increased development of alternative water supplies, such demands may increase in the future. The Legislature also finds that potential exists in the state for the production of significant quantities of alternative water supplies, including reclaimed water, and that water production includes the development of alternative water supplies, including reclaimed water, for appropriate uses. It is the intent of the Legislature that utilities develop reclaimed water systems, where reclaimed water is the most appropriate alternative water supply option, to deliver reclaimed water to as many users as possible through the most cost-effective means, and to construct reclaimed water system infrastructure to their owned or operated properties and facilities where they have reclamation capability. It is also the intent of the Legislature that the water management districts which levy ad valorem taxes for water management purposes should share a percentage of those tax revenues with water providers and users, including local governments, water, wastewater, and reuse utilities, municipal, industrial, and agricultural water users, and other public and private water users, to be used to supplement other funding sources in the development of alternative water supplies. The Legislature finds that public moneys or services provided to private entities for such uses constitute public purposes which are in the public interest. In order to further the development and use of alternative water supply systems, including reclaimed water systems, the Legislature provides the following:

(k) The Florida Public Service Commission shall allow entities under its jurisdiction constructing alternative water supply facilities, including but not limited to aquifer storage and recovery wells, to recover the full, prudently incurred cost of such facilities through their rate structure. Every component of an alternative water supply facility constructed by an investor-owned utility shall be recovered in current rates.

And the title is amended as follows:

On page 1, line 2,

after the semicolon insert: amending s. 373.1961, F.S.; allowing certain alternative water supply facilities to recover the cost of such facilities through rate structures;

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

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

REPRESENTATIVE MAYGARDEN IN THE CHAIR

HB 1111—A bill to be entitled An act relating to the Spaceport Infrastructure Reinvestment Act; creating said act; providing legislative findings; amending s. 212.20, F.S.; providing that taxes on sales, use, and other transactions collected by dealers conducting business at a fixed location at the Kennedy Space Center or Cape Canaveral Air Station on admissions thereto and on sales of tangible personal property at such business shall be separately returned and distributed by the Department of Revenue to the Florida Commercial Space Financing Corporation and used for funding aerospace infrastructure; providing a definition; providing for rules; providing an effective date.

—was read the second time by title.

The Committee on Economic Development & International Trade offered the following:

(Amendment Bar Code: 754677)

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

and insert in lieu thereof:

Section 1. *This act may be cited as the "Aerospace Infrastructure Reinvestment Act."*

Section 2. *The Legislature finds that promoting the growth of the space industry in Florida is a vital component of its overall economic plan and that facilitating additions to aerospace infrastructure will make the state more competitive and promote the retention and growth of space businesses in this state. This act therefore provides for the reinvestment of certain sales tax receipts arising from the presence of the space industry in Florida as a means of providing for that infrastructure growth.*

Section 3. Paragraphs (b) and (e) of subsection (6) of section 212.20, Florida Statutes, are amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter shall be as follows:

(b) Proceeds from discretionary sales surtaxes imposed pursuant to ss. 212.054 and 212.055*, except those distributed under s. 212.20(6)(e)7.c.,* shall be reallocated to the Discretionary Sales Surtax Clearing Trust Fund.

(e) The proceeds of all other taxes and fees imposed pursuant to this chapter shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this chapter shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Solid Waste Management Trust Fund.

3. After the distribution under subparagraphs 1. and 2., 9.653 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. After the distribution under subparagraphs 1., 2., and 3., 0.065 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

5. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 2.25 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

6. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 1.0715 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

7. Of the remaining proceeds:

a. Beginning July 1, 2000, and in each fiscal year thereafter, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties shall begin each fiscal year on or before January 5th and shall continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment shall continue until such time that the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards prior to July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 prior to July 1, 2000.

b. The department shall distribute $166,667 monthly pursuant to s. 288.1162 to each applicant that has been certified as a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise" pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each applicant that has been certified as a "facility for a retained spring training franchise" pursuant to s. 288.1162; however, not more than $208,335 may be distributed monthly in the aggregate to all certified facilities for a retained spring training franchise. Distributions shall begin 60 days following such certification and shall continue for not more than 30 years. Nothing contained in this paragraph shall be construed to allow an applicant certified pursuant to s. 288.1162 to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(6). However, a certified applicant is entitled to receive distributions up to the maximum amount allowable and undistributed under this section for additional renovations and improvements to the facility for the franchise without additional certification.

c. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, $166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, $83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of $999,996 shall be made, after certification and before July 1, 2000.

e. Every dealer conducting business at a fixed location at the Kennedy Space Center or Cape Canaveral Air Station and selling admissions to the Kennedy Space Center or Cape Canaveral Air Station, or any part of either, pursuant to a contract with the National Aeronautics and Space Administration or pursuant to a subcontract thereto, shall file returns each month in accordance with this sub-subparagraph. Each such dealer shall file a separate return each month which reports, separately from any other sales and use taxes due pursuant to this chapter, the sale of admissions to the Kennedy Space Center or Cape Canaveral Air Station or any part thereof or to any event held at either location, together with sales at retail of tangible personal property from such fixed place of business, and the taxes collected with respect to such admissions and sales. All amounts due pursuant to this chapter with respect to such transactions shall be timely remitted to the department. The dealer shall simultaneous file a copy of the return with the Florida Commercial Space Financing Corporation and a copy with the director of the Office of Tourism, Trade, and Economic Development, all of which return copies and information therein shall be subject to the same confidentiality provisions as are applicable to returns and information filed with the department pursuant to s. 213.053. Each month the department shall distribute to the Florida Commercial Space Financing Corporation all such proceeds collected and remitted to the department as shown on the returns required by this sub-subparagraph. The funds distributed to the Florida Commercial Space Financing Corporation shall be used solely for funding aerospace infrastructure as defined in this sub-subparagraph. In the event the department collects any additional amounts pursuant to this chapter with respect to any transactions for which a separate return is required by this sub-subparagraph, the proceeds shall, within 30 days following collection, be distributed by the department to the Florida Commercial Space Financing Corporation for the uses specified in this sub-subparagraph. For purposes of this sub-subparagraph, "aerospace infrastructure" means land, buildings and other improvements, fixtures, machinery, equipment, instruments, and software that will improve the state's capability to support, expand, or attract the launch, construction, processing, refurbishment, or manufacturing of rockets, missiles, capsules, spacecraft, satellites, satellite control facilities, ground support equipment and related tangible personal property, launch vehicles, modules, space stations or components destined for space station operation, and space flight research and development facilities, instruments, and equipment, together with any engineering, permitting, and other expenses directly related to such land, buildings, improvements, fixtures, machinery,

equipment, instruments, or software. Nothing in this sub-subparagraph shall be construed as affecting any dealer's liability for other taxes imposed by and due pursuant to this chapter.

8. All other proceeds shall remain with the General Revenue Fund.

Section 4. If section 35 of chapter 2000-260, Laws of Florida, is not repealed by section 58 of said chapter, effective October 1, 2001, paragraphs (b) and (e) of subsection (6) of section 212.20, Florida Statutes, as amended by section 35 of chapter 2000-260, Laws of Florida, are amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and s. 202.18(1)(b) and (2)(b) shall be as follows:

(b) Proceeds from discretionary sales surtaxes imposed pursuant to ss. 212.054 and 212.055*, except those distributed under s. 212.20(6)(e)7.c.,* shall be reallocated to the Discretionary Sales Surtax Clearing Trust Fund.

(e) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Solid Waste Management Trust Fund.

3. After the distribution under subparagraphs 1. and 2., 9.653 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. After the distribution under subparagraphs 1., 2., and 3., 0.065 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

5. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 2.25 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

6. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 1.0715 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

7. Of the remaining proceeds:

a. Beginning July 1, 2000, and in each fiscal year thereafter, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties shall begin each fiscal year on or before January 5th and shall continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment shall continue until such time that the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards prior to July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 prior to July 1, 2000.

b. The department shall distribute $166,667 monthly pursuant to s. 288.1162 to each applicant that has been certified as a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise" pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each applicant that has been certified as a "facility for a retained spring training franchise" pursuant to s. 288.1162; however, not more than $208,335 may be distributed monthly in the aggregate to all certified facilities for a retained spring training franchise. Distributions shall begin 60 days following such certification and shall continue for not more than 30 years. Nothing contained in this paragraph shall be construed to allow an applicant certified pursuant to s. 288.1162 to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(6). However, a certified applicant is entitled to receive distributions up to the maximum amount allowable and undistributed under this section for additional renovations and improvements to the facility for the franchise without additional certification.

c. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, $166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, $83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of $999,996 shall be made, after certification and before July 1, 2000.

e. Every dealer conducting business at a fixed location at the Kennedy Space Center or Cape Canaveral Air Station and selling admissions to the Kennedy Space Center or Cape Canaveral Air Station, or any part of either, pursuant to a contract with the National Aeronautics and Space Administration or pursuant to a subcontract thereto, shall file returns each month in accordance with this sub-subparagraph. Each such dealer shall file a separate return each month which reports, separately from any other sales and use taxes due pursuant to this chapter, the sale of admissions to the Kennedy Space Center or Cape Canaveral Air Station or any part thereof or to any event held at either location, together with sales at retail of tangible personal property from such fixed place of business, and the taxes collected with respect to such admissions and sales. All amounts due pursuant to this chapter with respect to such transactions shall be timely remitted to the department. The dealer shall simultaneously file a copy of the return with the Florida Commercial Space Financing Corporation and a copy with the director of the Office of Tourism, Trade, and Economic Development, all of which return copies and information therein shall be subject to the same confidentiality provisions as are applicable to returns and information filed with the department pursuant to s. 213.053. Each month the department shall distribute to the Florida Commercial Space Financing Corporation all such proceeds collected and remitted to the department as shown on the returns required by this sub-subparagraph. The funds distributed to the Florida Commercial Space Financing Corporation

shall be used solely for funding aerospace infrastructure as defined in this sub-subparagraph. In the event the department collects any additional amounts pursuant to this chapter with respect to any transactions for which a separate return is required by this sub-subparagraph, the proceeds shall, within 30 days following collection, be distributed by the department to the Florida Commercial Space Financing Corporation for the uses specified in this sub-subparagraph. For purposes of this sub-subparagraph, "aerospace infrastructure" means land, buildings and other improvements, fixtures, machinery, equipment, instruments, and software that will improve the state's capability to support, expand, or attract the launch, construction, processing, refurbishment, or manufacturing of rockets, missiles, capsules, spacecraft, satellites, satellite control facilities, ground support equipment and related tangible personal property, launch vehicles, modules, space stations or components destined for space station operation, and space flight research and development facilities, instruments, and equipment, together with any engineering, permitting, and other expenses directly related to such land, buildings, improvements, fixtures, machinery, equipment, instruments, or software. Nothing in this sub-subparagraph shall be construed as affecting any dealer's liability for other taxes imposed by and due pursuant to this chapter.

8. All other proceeds shall remain with the General Revenue Fund.

Section 5. *The Department of Revenue is authorized to promulgate rules implementing the provisions of this act.*

Section 6. This act shall take effect July 1, 2001, and be applicable to taxes due on or after that date.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to the Aerospace Infrastructure Reinvestment Act; creating said act; providing legislative findings; amending s. 212.20, F.S.; providing that the amounts due under the chapter on sales, use, and other transactions collected by dealers conducting business at a fixed location at the Kennedy Space Center or Cape Canaveral Air Station on admissions thereto and on sales of tangible personal property at such business shall be separately returned and distributed by the Department of Revenue to the Florida Commercial Space Financing Corporation and used for funding aerospace infrastructure; providing an exemption for the reallocation of certain proceeds to the Discretionary Sales Surtax Clearing Trust Fund; providing a definition; providing for rules; providing an effective date.

Rep. Allen moved the adoption of the amendment.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 162333)

Amendment 1 to Amendment 1—On page 2, line 7, and

On page 7, line 26
remove from the amendment: *s. 212.20(6)(e)7.c.*

and insert in lieu thereof: *s. 212.20(6)(e)7.e.*

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

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 260763)

Amendment 2 to Amendment 1—On page 6, line 6
remove from the amendment: *simultaneous*

and insert in lieu thereof: *simultaneously*

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

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

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

HB 7 was taken up. On motion by Rep. Heyman, SB 130 was substituted for HB 7. Under Rule 5.15, the House bill was laid on the table and—

SB 130—A bill to be entitled An act relating to eminent domain; amending s. 166.411, F.S.; authorizing municipalities to exercise the power of eminent domain for public school purposes; providing for future repeal; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 19—A bill to be entitled An act relating to the Fair Housing Act; amending s. 760.29, F.S.; providing that a facility or community claiming an exemption from said act with respect to familial status for housing for older persons shall register with the Florida Commission on Human Relations and affirm compliance with specified requirements; providing for a registration fee; providing for fines; amending s. 760.31, F.S.; providing for rules; providing an effective date.

—was read the second time by title.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 205781)

Amendment 1 (with title amendment)—On page 1, line 15,

insert:

Section 1. Paragraph (d) of subsection (2) and subsection (11) of section 420.5092, Florida Statutes, are amended to read:

420.5092 Florida Affordable Housing Guarantee Program.—

(2) As used in this section, the term:

(d) "Eligible housing" means any real and personal property designed and intended for the primary purpose of providing decent, safe, and sanitary residential units for homeownership or rental for eligible persons*, including specifically housing for the homeless,* as determined by the corporation pursuant to rule.

(11) The maximum total amount of revenue bonds that may be issued by the corporation pursuant to subsection (5) is *$400* ~~$200~~ million.

And the title is amended as follows:

On page 1, lines 2-5 ,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to housing; amending s. 420.5092, F.S.; including housing for the homeless in eligible housing under the Florida Affordable Housing Guarantee Program; increasing the maximum amount of revenue bonds that may be issued by the Florida Housing Finance Corporation under said program; amending s. 760.29, F.S.; providing that a facility or community claiming an exemption from the Fair Housing Act with respect to familial status

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

The Council for Smarter Government offered the following:

(Amendment Bar Code: 114581)

Amendment 2 (with title amendment)—On page 1, line 15,

insert:

Section 1. Paragraph (a) of subsection (1) of section 420.5088, Florida Statutes, is amended to read:

420.5088 Florida Homeownership Assistance Program.—There is created the Florida Homeownership Assistance Program for the purpose of assisting low-income persons in purchasing a home by reducing the

cost of the home with below-market construction financing, by reducing the amount of down payment and closing costs paid by the borrower to a maximum of 5 percent of the purchase price, or by reducing the monthly payment to an affordable amount for the purchaser. Loans shall be made available at an interest rate that does not exceed 3 percent. The balance of any loan is due at closing if the property is sold or transferred.

(1) For loans made available pursuant to s. 420.507(23)(a)1. or 2.:

(a) The corporation may underwrite and make those mortgage loans through the program to persons or families ~~who are eligible to participate in the corporation's single-family mortgage revenue bond programs and~~ who have incomes that do not exceed 80 percent of the state or local median income, whichever is greater, adjusted for family size. ~~If the corporation determines that there is insufficient demand for such loans by persons or families who are eligible to participate in the corporation's single-family mortgage revenue bond programs, the corporation may make such mortgage loans to other persons or families who have incomes that do not exceed 80 percent of the state or local median income, whichever amount is greater.~~

And the title is amended as follows:

On page 1, lines 2-5,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to housing; amending s. 420.5088, F.S.; revising eligibility requirements for certain loans under the Florida Homeownership Assistance Program; amending s. 760.29, F.S.; providing that a facility or community claiming an exemption from the Fair Housing Act with respect to familial status

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

The Council for Smarter Government offered the following:

(Amendment Bar Code: 523251)

Amendment 3 (with title amendment)—On page 1, line 15,

insert:

Section 1. Subsections (15) and (19) of section 420.503, Florida Statutes, are amended to read:

420.503 Definitions.—As used in this part, the term:

(15) "Elderly" means persons 62 years of age or older. *This definition shall not be deemed to prohibit housing from being deemed housing for the elderly as defined by subsection (19) if such housing otherwise meets the requirements of subsection (19).*

(19) "Housing for the elderly" means, for purposes of s. 420.5087(3)(c)2., any nonprofit housing community that is financed by a mortgage loan made or insured by the United States Department of Housing and Urban Development under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), or s. 236 of the National Housing Act, as amended, and that is subject to income limitations established by the United States Department of Housing and Urban Development, or any program funded by the Rural Development Agency of the United States Department of Agriculture and subject to income limitations established by the United States Department of Agriculture. A project which qualifies for an exemption under the Fair Housing Act as housing for older persons as defined by s. 760.29(4) shall qualify as housing for the elderly for purposes of s. 420.5087(3)(c)2. *and for purposes of any loans made pursuant to s. 420.508.* In addition, if the corporation adopts a qualified allocation plan pursuant to s. 42(m)(1)(B) of the Internal Revenue Code or any other rules that prioritize projects targeting the elderly for purposes of allocating tax credits pursuant to s. 420.5099 or for purposes of the HOME program under s. 420.5089, a project which qualifies for an exemption under the Fair Housing Act as housing for older persons as defined by s. 760.29(4) shall qualify as a project targeted for the elderly, if the project satisfies the other requirements set forth in this part.

And the title is amended as follows:

On page 1, lines 2-5,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to housing; amending s. 420.503, F.S.; revising the definitions of "elderly" and "housing for the elderly" under the Florida Housing Finance Corporation Act; amending s. 760.29, F.S.; providing that a facility or community claiming an exemption from the Fair Housing Act with respect to familial status

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

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

HB 1223—A bill to be entitled An act relating to plans review and inspection of commercial buildings; amending ss. 471.015 and 481.213, F.S.; requiring the Board of Professional Engineers and the Board of Architecture and Interior Design to establish by rule qualifications for certifying professional engineers and licensed architects, respectively, as commercial building inspectors; requiring the boards to also establish minimum qualifications for authorized representatives of commercial building inspectors; amending ss. 471.045 and 481.222, F.S.; allowing professional engineers and licensed architects certified as commercial building inspectors to perform certain building code inspection services; providing for the conduct and applicability of complaint and disciplinary provisions; prohibiting plans review or building code inspection on certain projects; creating s. 553.791, F.S.; providing requirements for plans review and inspection of commercial buildings by commercial building inspectors; providing definitions; providing for inspection records and certificates of compliance; providing for resolution of disagreements; providing requirements for local enforcement agencies; providing for initiation of disciplinary proceedings; requiring certain minimum liability coverage; providing an effective date.

—was read the second time by title.

The Committee on Business Regulation offered the following:

(Amendment Bar Code: 345401)

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

and insert in lieu thereof:

Section 1. *The Building Construction Permitting and Inspection Task Force is hereby created to recommend a procedure by which the public could elect to engage an engineer or architect to perform plans review and inspection for the construction, alteration, repair, or improvement of real property, and the appropriate role of the local building official in such an alternative plans review and inspection procedure and in the resulting issuance of a building permit and certificate of occupancy.*

(1) The task force shall be composed of 10 members, as follows:

(a) The Building Officials Association of Florida shall designate four members;

(b) The Associated General Contractors of florida shall designate one member;

(c) The Florida Home Builders Association shall designate one member;

(d) The Florida Engineering Society shall designate one member;

(e) The Florida Association of the American Institute of Architects shall designate one member;

(f) The Florida Building Commission shall designate two members, one member to be a building official or inspector, and one to be a contractor, architect, or engineer.

(2) The task force shall meet at least four times prior to January 1, 2002. Members may participate in any meeting via telephone conference.

Members shall serve on a voluntary basis, without compensation and without reimbursement for per diem and travel expenses.

(3) The task force shall examine the various processes used by local building officials throughout the state in conducting plans review for the construction, alteration, repair, or improvement of real property, and approving building permit applications, as well as those processes used by local building officials in conducting required inspections for construction, alteration, repair, or improvement of real property, and issuing certificates of occupancy. The task force shall make recommendations on the following:

(a) A procedure by which the public could elect to engage an engineer or architect to perform plans review and inspection for the construction, alteration, repair, or improvement of real property; and

(b) The appropriate role of the local building official in such an alternative plans review and inspection procedure and in the resulting issuance of a building permit and certificate of occupancy.

(4) The task force shall submit to the Governor, the Speaker of the House of Representatives, and the President of the Senate, by January 1, 2002, a report presenting the task force's recommendations and findings.

(5) The Florida Building Commission shall provide logistical and staff support for the task force.

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

And the title is amended as follows:

On page 1, lines 2-31,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to construction permitting and inspection; creating the Building Construction Permitting and Inspection Task Force; providing responsibilities; providing for appointment of members; providing for meetings and staffing by the Florida Building Commission; providing for recommendations and a report by a date certain; providing an effective date.

Rep. Cantens moved the adoption of the amendment.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 221899)

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

and insert in lieu thereof:

Section 1. *The Florida Building Commission shall convene an ad hoc subcommittee to recommend a procedure by which the public could elect to engage an engineer or architect to perform plans review and inspection for the construction, alteration, repair, or improvement of real property, and the appropriate role of the local building official in such an alternative plans review and inspection procedure and in the resulting issuance of a building permit and certificate of occupancy.*

(1) The ad hoc committee shall be composed of 11 members appointed by the Chairman of the Commission who shall meet the following qualifications:

(a) Five members from the Building Officials Association of Florida;

(b) Two members from the Associated General Contractors of Florida;

(c) One member from the Florida Homebuilders Association;

(d) One member from the Florida Engineering Society;

(e) One member from the American Institute of Architects;

(f) One Insurance Industry Representative;

(2) The ad hoc subcommittee shall meet at least four times prior to January 1, 2002. Members may participate in any meeting via telephone conference if the technology is available at the meeting location. Members shall serve on a voluntary basis, without compensation and without reimbursement of per diem and travel expenses.

(3) The ad hoc subcommittee shall examine the various processes used by local building officials throughout the state in conducting plans review for the construction, alteration, repair, or improvement of real property, and approving building permit applications, as well as those processes used by local building officials in conducting required inspections for construction, alteration, repair, or improvement of real property, and issuing certificates of occupancy. The ad hoc subcommittee shall make recommendations on the following:

(a) A procedure by which the public could elect to engage an engineer or architect to perform plans review and inspection for the construction, alteration, repair, or improvement of real property; and

(b) The appropriate role of the local building official in such an alternative plans review and inspection procedure and in the resulting issuance of a building permit and certificate of occupancy.

(4) The ad hoc subcommittee shall submit to the Florida Building Commission its recommendations and findings by January 1, 2002. The Commission shall submit to the Governor, the Speaker of the House of Representatives, and the President of the Senate, before the beginning of the next regularly scheduled session, a report of its findings, which shall include the recommendations of the ad hoc committee.

(5) The Department of Community Affairs shall provide logistical and staff support for the ad hoc subcommittee.

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

And the title is amended as follows:

On page 1, lines 2-31 of the amendment
remove: all of said lines

and insert in lieu thereof: An act relating to construction permitting and inspection; requiring the Florida Building Commission to convene an ad hoc subcommittee to make recommendations regarding alternative plans review and inspection procedures; requiring a report; providing responsibilities; providing for appointment of members; providing for meetings and staffing by the Florida Building Commission; providing for recommendations and a report by a date certain; providing an effective date.

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

On motion by Rep. Cantens, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Cantens offered the following:

(Amendment Bar Code: 310157)

Amendment 2 to Amendment 1—On page 1, lines 26, through page 2, line 9,
remove from the amendment: all of said lines

and insert in lieu thereof:

(1) The task force shall be composed of 11 members, appointed as follows:

(a) The Building Officials Association of Florida shall appoint four members;

(b) The Associated General Contractors of Florida shall appoint one member;

(c) The Florida Home Builders Association shall appoint one member;

(d) The Florida Engineering Society shall appoint one member;

(e) The Florida Association of the American Institute of Architects shall appoint one member;

(f) The Florida Building Commission shall appoint two members, one member to be a building official or inspector, and one to be a contractor, architect, or engineer.

(g) The Florida Insurance Council shall appoint one member.

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

On motion by Rep. Cantens, further consideration of **Amendment 2 to Amendment 1** was temporarily postponed under Rule 11.10.

Reconsideration

On motion by Rep. Cantens, the House reconsidered the vote by which **Amendment 1 to Amendment 1** was adopted. The question recurred on the adoption of the amendment to the amendment, which failed of adoption.

The question recurred on the adoption of **Amendment 2 to Amendment 1**, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

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

CS/HB 157—A bill to be entitled An act relating to motor vehicle airbags; creating s. 860.146, F.S.; prohibiting the installation or reinstallation in a motor vehicle of anything other than a new or salvaged airbag designed in accordance with certain federal safety standards; providing a felony penalty; providing for application of certain recordkeeping requirements and penalties; providing an effective date.

—was read the second time by title.

On motion by Rep. Weissman, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Weissman offered the following:

(Amendment Bar Code: 525181)

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

insert:

Section 1. Section 860.146, Florida Statutes, is created to read:

860.146 Fake airbags; junk-filled airbag compartment.—

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

(a) "Fake airbag" means any item other than an air bag that was designed in accordance with federal safety regulations for a given make, model, and year of motor vehicle as part of a motor vehicle inflatable restraint system.

(b) "Junk-filled airbag compartment" means an airbag compartment that is filled with any substance that does not function in the same manner or to the same extent as an airbag to protect vehicle occupants in a vehicle crash. The term does not include a compartment from which an airbag has deployed if there is no concealment of the deployment.

(2) It is unlawful for anyone to knowingly purchase, sell, or install on any vehicle any fake airbag or junk-filled airbag compartment. Any person who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

And the title is amended as follows:
remove from the title of the bill: The entire title

and insert: A bill to be entitled An act relating to Motor Vehicles; creating s. 860.146, F.S.; defining the terms "fake airbag" and "junk-filled airbag compartment"; prohibiting the sale, purchase, or installation of fake airbags or junk-filled airbag compartments; providing criminal penalties; providing an effective date.

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

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

HB 285 was taken up. On motion by Rep. Wilson, the rules were waived and SB 226 was substituted for HB 285. Under Rule 5.15, the House bill was laid on the table and—

SB 226—A bill to be entitled An act relating to prisons; creating the "Protection Against Sexual Violence in Florida Jails and Prisons Act"; amending s. 944.35, F.S.; requiring the Criminal Justice Standards and Training Commission to develop a course relating to sexual assault identification and prevention as part of the correctional-officer training program; creating s. 951.221, F.S.; prohibiting sexual misconduct by employees of county or municipal detention facilities; providing for termination of employment under certain circumstances; providing penalties; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

On motion by Rep. Benson, consideration of **HB 805** was temporarily postponed under Rule 11.10.

HB 349 was taken up. On motion by Rep. Gannon, the rules were waived and CS for CS for SB 400 was substituted for HB 349. Under Rule 5.15, the House bill was laid on the table and—

CS for CS for SB 400—A bill to be entitled An act relating to support of dependents; amending s. 827.06, F.S.; providing alternative punishment for nonsupport of dependents; providing a felony penalty for fourth or subsequent violations; providing for the amount of restitution due; providing requirements with respect to certain evidence; providing for satisfaction of the element of notice under certain circumstances; providing an effective date.

—was read the second time by title.

Representative(s) Gannon offered the following:

(Amendment Bar Code: 930887)

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

and insert in lieu thereof:

Section 1. Section 827.06, Florida Statutes, is amended to read:

827.06 ~~Persistent~~ Nonsupport *of dependents*.—

(1) The Legislature finds that most noncustodial parents want to support their children and remain connected to their families. The Legislature also finds that while many noncustodial parents lack the financial resources and other skills necessary to provide that support, a small percentage of such parents willfully fail to provide support to their children even when they are aware of the obligation and have the ability to do so pursuant to s. 61.30. The Legislature further finds that existing statutory provisions for civil enforcement of support have not proven sufficiently effective or efficient in gaining adequate support for all children. Recognizing that it is the public policy of this state that children shall be maintained primarily from the resources of their parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through public assistance programs, it is the intent of the Legislature that the criminal penalties provided for in this section are to be pursued in all appropriate cases where exhaustion of appropriate civil enforcement has not resulted in payment.

(2) ~~(1)~~ Any person who, after notice *as specified in subsection (6), and who has been previously adjudged in contempt for failure to comply with a support order, willfully* fails to provide support which he or she *has the ability* ~~is able~~ to provide to *a child* ~~children~~ or *a* spouse whom the person knows he or she is legally obligated to support *commits*~~, and over whom~~

~~no court has jurisdiction in any proceedings for child support or dissolution of marriage, shall be guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. *In lieu of any punishment imposed pursuant to s. 775.082 or s. 775.083, any person who is convicted of a violation of this subsection shall be punished:*

(a) By a fine to be paid after restitution for:

1. Not less than $250 nor more than $500 for a first conviction.

2. Not less than $500 nor more than $750 for a second conviction.

3. Not less than $750 nor more than $1,000 for a third conviction; and

(b) By imprisonment for:

1. Not less than 15 days nor more than 1 month for a first conviction.

2. Not less than 1 month nor more than 3 months for a second conviction.

3. Not less than 3 months nor more than 6 months for a third conviction.

(3) Any person who is convicted of a fourth or subsequent violation of subsection (2) or who violates subsection (2) and who has owed to that child or spouse for more than 1 year support in an amount equal to or greater than $5,000 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Upon a conviction under this section, the court shall order restitution in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

(5)(a) Evidence that the defendant willfully failed to make sufficient good faith efforts to legally acquire the resources to pay legally ordered support may be sufficient to prove that he or she had the ability to provide support but willfully failed to do so, in violation of this section.

(b) The element of knowledge may be proven by evidence that a court or tribunal as defined by s. 88.1011(22) has entered an order that obligates the defendant to provide the support.

(6) ~~(2)~~ Prior to commencing prosecution under this section, the state attorney must *notify* ~~advise~~ the person responsible for support by certified mail, return receipt requested, that a prosecution under this section will be commenced against him or her unless the person *pays the total unpaid support obligation* ~~makes such delinquent support payments~~ or provides a satisfactory explanation as to why he or she has not made such payments.

Section 2. This act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, line 2,
remove from the title of the bill: all of said lines

and insert in lieu thereof:

An act relating to support of dependents; amending s. 827.06, F.S.; providing alternative punishment for nonsupport of dependents; providing a felony penalty for fourth or subsequent violations; providing for the amount of restitution due; providing requirements with respect to certain evidence; providing for satisfaction of the element of notice under certain circumstances; providing an effective date.

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

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

CS/CS/HB 109 was taken up. On motion by Rep. Cantens, the rules were waived and CS for SB 94 was substituted for CS/CS/HB 109. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 94—A bill to be entitled An act relating to consumer collection practices; amending s. 559.72, F.S.; prohibiting certain communications with a debtor who is represented by an attorney; prohibiting the causing of charges to be made to a debtor; amending s. 559.77, F.S.; revising civil remedies for engaging in prohibited collection practices; providing for damages in class actions; prescribing circumstances under which liability does not attach; providing a limitation on bringing an action for a remedy for unlawful collection practices; providing for application of federal precedent regarding corresponding federal laws; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 375 was taken up. On motion by Rep. Ausley, the rules were waived and SB 338 was substituted for HB 375. Under Rule 5.15, the House bill was laid on the table and—

SB 338—A bill to be entitled An act relating to criminal justice; providing a short title; amending s. 782.04, F.S.; making it a capital felony to commit the unlawful killing of a human being while perpetrating or attempting to perpetrate the act of resisting an officer with violence to the officer's person; providing penalties for specified murders involving the perpetration of or the attempt to perpetrate the act of resisting an officer with violence to the officer's person; amending s. 775.0823, F.S.; correcting sentencing references; reenacting ss. 782.051, 903.133, 921.0022(3)(h) and (i), and 947.146(3)(i), F.S., relating to attempted felony murder, relating to bail on appeal prohibited for certain felony convictions, relating to the Criminal Punishment Code offense severity ranking chart, and relating to the Control Release Authority; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 575—A bill to be entitled An act relating to filing fees; amending s. 15.16, F.S.; authorizing the Department of State to discount certain filing fees under certain circumstances; amending s. 607.193, F.S.; providing an exception to imposition of a late charge for a supplemental corporate fee under certain circumstances; providing an effective date.

—was read the second time by title.

On motion by Rep. Baker, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Baker offered the following:

(Amendment Bar Code: 145035)

Amendment 1—On page 1, lines 13-22,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 1. Subsection (8) is added to section 15.16, Florida Statutes, to read:

15.16 Reproduction of records; admissibility in evidence; electronic receipt and transmission of records; certification; acknowledgment.—

(8) The Department of State may use government or private sector contractors in the promotion or provision of any electronic filing services and may discount the filing fee in an amount equal to the convenience charge for such electronic filings.

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

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

HB 423 was taken up. On motion by Rep. Greenstein, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 350, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Children and Families and Senators Dawson, Miller, Mitchell and Lawson—

CS for SB 350—A bill to be entitled An act relating to individual development accounts; providing purposes; providing definitions; requiring the Department of Children and Family Services to amend the Temporary Assistance for Needy Families State Plan to provide for use of funds for individual development accounts; specifying criteria and requirements for contributions to such accounts; specifying purposes for use of such accounts; providing for procedures for withdrawals from such accounts; specifying certain organizations to act as fiduciary organizations for certain purposes; providing for controlling the withdrawal of funds for uses other than qualified purposes; providing for resolution of certain disputes; providing for transfer of ownership of such accounts under certain circumstances; providing for establishment of such accounts by certain financial institutions under certain circumstances; providing requirements; providing that account funds and matching funds do not affect certain program eligibility; providing for rules; providing an effective date.

—was taken up, read the first time by title, and substituted for HB 423. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Greenstein, the rules were waived and CS for SB 350 was read the second time by title.

THE SPEAKER IN THE CHAIR

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

Special Orders

Special Order Calendar

HB 731—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; providing exemptions from public records requirements for specified identifying information relating to local government or water management district human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers and their spouses and children; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the second time by title.

Representative(s) Smith offered the following:

(Amendment Bar Code: 110441)

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

and insert in lieu thereof:

Section 1. Paragraph (i) of subsection (3) of section 119.07, Florida Statutes, is amended to read:

119.07 Inspection, examination, and duplication of records; exemptions.—

(3)

(i)1. The home addresses, telephone numbers, social security numbers, and photographs of active or former law enforcement personnel, including correctional and correctional probation officers, personnel of the Department of Children and Family Services whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from the provisions of subsection (1). The home addresses, telephone numbers, and photographs of firefighters certified in compliance with s. 633.35; the home addresses, telephone numbers, photographs, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from subsection (1). The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from the provisions of subsection (1). The home addresses, telephone numbers, social security numbers, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from subsection (1) and s. 24(a), Art. I of the State Constitution. ~~The home addresses and home telephone numbers of county and municipal code inspectors and code enforcement officers are confidential and exempt from the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution.~~

2. The home addresses, telephone numbers, social security numbers, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from subsection (1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

3. The home addresses, telephone numbers, social security numbers, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from subsection (1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

4.~~2.~~ An agency that is the custodian of the personal information specified in subparagraph 1.*, subparagraph 2., or subparagraph 3.* and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 1.*, subparagraph 2., or subparagraph 3.* shall maintain the confidentiality of the personal information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for confidentiality to the custodial agency.

Section 2. *The Legislature finds that the exemption from public records requirements provided by this act for identifying information*

relating to current and former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of local government agencies or water management districts and their families is justified because, if such information were not confidential, a human resource, labor relations, or employee relations director, assistant director, manager, or assistant manager or such person's family could be harmed or threatened with harm by a current or former employee or a friend or family member of a current or former employee.

Section 3. *The Legislature finds that the exemption from public records requirements provided for by this act for identifying information relating to current and former code enforcement officers and their families is a public necessity. The current exemption of names and addresses has not completely shielded the identities of county and municipal code enforcement officers. The responsibilities of these employees regularly take them into areas of neglect, abuse, and personal danger. Citations issued in response to violations that they encounter often lead to retribution by the offenders. Their personnel files are reviewed on numerous occasions by code violators seeking information relating to the code enforcement officers and their families. The disclosure of this personal information has led to threats, acts of violence, and unwarranted risk to the officers and their families.*

Section 4. This act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, lines 10 and 11,
remove from the title of the bill: all of said lines

and insert in lieu thereof: expanding the exemption for code enforcement officers to include additional information and to include such officers' spouses and children; providing for future review and repeal; providing findings of public necessity;

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

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

Motions Relating to Committee or Council References

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 509 was withdrawn from the Procedural & Redistricting Council and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 933 was withdrawn from the Committee on State Administration and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1519 was withdrawn from the Council for Smarter Government and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 1699 was withdrawn from the Council for Competitive Commerce and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1823 was withdrawn from the Council for Smarter Government and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, HB 1265 was withdrawn from the Committee on General Government Appropriations and the Council for Ready Infrastructure and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 135 was withdrawn from the Council for Lifelong Learning and placed on the Calendar of the House.

On motion by Rep. Goodlette, agreed to by two-thirds vote, CS/HB 1101 was withdrawn from the Council for Ready Infrastructure and placed on the Calendar of the House.

Motion

On motion by Rep. Goodlette, the rules were waived and **CS/HB 459, HBs 567, 1017, 1169, 1365, CS/HB 1385, HBs 1471,** and **1789** were added to the Special Order Calendar.

Special Orders

Special Order Calendar

HB 1491—A bill to be entitled An act relating to wastewater sludge; creating the "Florida Wastewater Residual Reduction Act"; providing for appropriate disposal and treatment of wastewater sludge; providing fee incentives for utilities using appropriate treatment; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources & Environmental Protection offered the following:

(Amendment Bar Code: 400573)

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

and insert in lieu thereof:

Section 1. Paragraph (c) of subsection (3) of section 373.4595, Florida Statutes, is amended to read:

373.4595 Lake Okeechobee Protection Program.—

(3) LAKE OKEECHOBEE PROTECTION PROGRAM.—A protection program for Lake Okeechobee that achieves phosphorus load reductions for Lake Okeechobee shall be immediately implemented as specified in this subsection. The program shall address the reduction of phosphorus loading to the lake from both internal and external sources. Phosphorus load reductions shall be achieved through a phased program of implementation. Initial implementation actions shall be technology-based, based upon a consideration of both the availability of appropriate technology and the cost of such technology, and shall include phosphorus reduction measures at both the source and the regional level. The initial phase of phosphorus load reductions shall be based upon the district's Technical Publication 81-2 and the district's WOD program, with subsequent phases of phosphorus load reductions based upon the total maximum daily loads established in accordance with s. 403.067. In the development and administration of the Lake Okeechobee Protection Program, the coordinating agencies shall maximize opportunities provided by federal cost-sharing programs and opportunities for partnerships with the private sector.

(c) Lake Okeechobee Watershed Phosphorus Control Program.—The Lake Okeechobee Watershed Phosphorus Control Program is designed to be a multifaceted approach to reducing phosphorus loads by improving the management of phosphorus sources within the Lake Okeechobee watershed through continued implementation of existing regulations and best management practices, development and implementation of improved best management practices, improvement and restoration of the hydrologic function of natural and managed systems, and utilization of alternative technologies for nutrient reduction. The coordinating agencies shall facilitate the application of federal programs that offer opportunities for water quality treatment, including preservation, restoration, or creation of wetlands on agricultural lands.

1. Agricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Protection Program, shall be implemented on an expedited basis. By March 1, 2001, the coordinating agencies shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) that assures the development of best management practices that complement existing regulatory programs and specifies how those best management practices are implemented and verified. The interagency agreement shall address measures to be taken by the coordinating agencies during any best management

practice reevaluation performed pursuant to sub-subparagraph d. The department shall use best professional judgment in making the initial determination of best management practice effectiveness.

a. As provided in s. 403.067(7)(d), by October 1, 2000, the Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall initiate rule development for interim measures, best management practices, conservation plans, nutrient management plans, or other measures necessary for Lake Okeechobee phosphorus load reduction. The rule shall include thresholds for requiring conservation and nutrient management plans and criteria for the contents of such plans. Development of agricultural nonpoint source best management practices shall initially focus on those priority basins listed in subparagraph (b)1. The Department of Agriculture and Consumer Services, in consultation with the department, the district, and affected parties, shall conduct an ongoing program for improvement of existing and development of new interim measures or best management practices for the purpose of adoption of such practices by rule.

b. Where agricultural nonpoint source best management practices or interim measures have been adopted by rule of the Department of Agriculture and Consumer Services, the owner or operator of an agricultural nonpoint source addressed by such rule shall either implement interim measures or best management practices or demonstrate compliance with the district's WOD program by conducting monitoring prescribed by the department or the district. Owners or operators of agricultural nonpoint sources who implement interim measures or best management practices adopted by rule of the Department of Agriculture and Consumer Services shall be subject to the provisions of s. 403.067(7). The Department of Agriculture and Consumer Services, in cooperation with the department and the district, shall provide technical and financial assistance for implementation of agricultural best management practices, subject to the availability of funds.

c. The district or department shall conduct monitoring at representative sites to verify the effectiveness of agricultural nonpoint source best management practices.

d. Where water quality problems are detected for agricultural nonpoint sources despite the appropriate implementation of adopted best management practices, the Department of Agriculture and Consumer Services, in consultation with the other coordinating agencies and affected parties, shall institute a reevaluation of the best management practices and make appropriate changes to the rule adopting best management practices.

2. Nonagricultural nonpoint source best management practices, developed in accordance with s. 403.067 and designed to achieve the objectives of the Lake Okeechobee Protection Program, shall be implemented on an expedited basis. By March 1, 2001, the department and the district shall develop an interagency agreement pursuant to ss. 373.046 and 373.406(5) that assures the development of best management practices that complement existing regulatory programs and specifies how those best management practices are implemented and verified. The interagency agreement shall address measures to be taken by the department and the district during any best management practice reevaluation performed pursuant to sub-subparagraph d.

a. The department and the district are directed to work with the University of Florida's Institute of Food and Agricultural Sciences to develop appropriate nutrient application rates for all nonagricultural soil amendments in the watershed. As provided in s. 403.067(7)(c), by January 1, 2001, the department, in consultation with the district and affected parties, shall develop interim measures, best management practices, or other measures necessary for Lake Okeechobee phosphorus load reduction. Development of nonagricultural nonpoint source best management practices shall initially focus on those priority basins listed in subparagraph (b)1. The department, the district, and affected parties shall conduct an ongoing program for improvement of existing and development of new interim measures or best management practices. The district shall adopt technology-based standards under the district's WOD program for nonagricultural nonpoint sources of phosphorus.

b. Where nonagricultural nonpoint source best management practices or interim measures have been developed by the department and adopted by the district, the owner or operator of a nonagricultural nonpoint source shall implement interim measures or best management practices and be subject to the provisions of s. 403.067(7). The department and district shall provide technical and financial assistance for implementation of nonagricultural nonpoint source best management practices, subject to the availability of funds.

c. The district or the department shall conduct monitoring at representative sites to verify the effectiveness of nonagricultural nonpoint source best management practices.

d. Where water quality problems are detected for nonagricultural nonpoint sources despite the appropriate implementation of adopted best management practices, the department and the district shall institute a reevaluation of the best management practices.

3. The provisions of subparagraphs 1. and 2. shall not preclude the department or the district from requiring compliance with water quality standards or with current best management practices requirements set forth in any applicable regulatory program authorized by law for the purpose of protecting water quality. Additionally, subparagraphs 1. and 2. are applicable only to the extent that they do not conflict with any rules promulgated by the department that are necessary to maintain a federally delegated or approved program.

4. Projects which reduce the phosphorus load originating from domestic wastewater systems within the Lake Okeechobee watershed shall be given funding priority in the department's revolving loan program under s. 403.1835. The department shall coordinate and provide assistance to those local governments seeking financial assistance for such priority projects.

5.*(a)* The department shall require all entities disposing of domestic wastewater residuals within the Lake Okeechobee watershed to develop and submit to the department by July 1, 2001, an agricultural use plan that limits applications based upon phosphorus loading. Phosphorus loading originating from these application sites shall not exceed the limits established in the district's WOD program.

(b) Private and government-owned utilities within Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River, Okeechobee, Highlands, Hendry and Glades counties that dispose of wastewater residual sludge from utility operations and septic removal by land spreading in the Lake Okeechobee watershed may use a line item on local sewer rates to cover wastewater residual treatment and disposal if such disposal and treatment is done by approved alternative treatment methodology at a facility located within the areas designated by the Governor as rural areas of critical economic concern pursuant to s. 288.0656. This additional line item is an environmental protection disposal fee above the present sewer rate and shall not be considered a part of the present sewer rate to customers, notwithstanding provisions to the contrary in chapter 367. The fee shall be established by the County Commission or their designated assignee in the county in which the alternative method treatment facility is located. Further, for utilities and utility authorities that use the additional line item environmental protection disposal fee, such fee shall not be considered a rate increase under the rules of the Public Service Commission and shall be exempt from such rules. Utilities using the provisions of this section may immediately include in their sewer invoicing the new environmental protection disposal fee. Proceeds from this environmental protection disposal fee shall be used for treatment and disposal of wastewater residuals including any treatment technology that helps reduce the volume of residuals that require final disposal, but such proceeds shall not be used for transportation or shipment costs for disposal or any costs relating to the land application of residuals in the Lake Okeechobee watershed.

6. By July 1, 2001, the Department of Agriculture and Consumer Services shall initiate rulemaking requiring entities within the Lake Okeechobee watershed which land-apply animal manure to develop conservation or nutrient management plans that limit application, based upon phosphorus loading. Such rules may include criteria and

thresholds for the requirement to develop a conservation or nutrient management plan, requirements for plan approval, and recordkeeping requirements.

7. Prior to authorizing a discharge into works of the district, the district shall require responsible parties to demonstrate that proposed changes in land use will not result in increased phosphorus loading over that of existing land uses.

8. The district, the department, or the Department of Agriculture and Consumer Services, as appropriate, shall implement those alternative nutrient reduction technologies determined to be feasible pursuant to subparagraph (d)6.

Section 2. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, lines 2 through 7
remove from the title of the bill:

and insert in lieu thereof: An act relating to Lake Okeechobee Protection Program; amending s. 373.4595, F.S.; authorizing a line item on utility sewer rates to cover wastewater residual treatment and disposal in certain counties; providing exemption from requirements of the Public Service Commission; providing an effective date.

Rep. Attkisson moved the adoption of the amendment.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 773343)

Amendment 1 to Amendment 1—On page 7, line 16,

after "*located.*" insert:
The fee shall be calculated to be no higher than that necessary to recover the facility's prudent cost of providing the service. Upon request by an affected county commission, the Public Service Commission will provide assistance in establishing the fee.

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

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 110193)

Amendment 2 to Amendment 1 (with title amendment)—On page 7, between lines 30 and 31, of the amendment

insert:

c. No less than once every 3 years, the Public Service Commission or the county commission through the services of an independent auditor shall perform a financial audit of all facilities receiving compensation from an environmental protection disposal fee. The Public Service Commission or the county commission through the services of an independent auditor shall also perform an audit of the methodology used in establishing the environmental protection disposal fee. The Public Service Commission or the county commission shall, within 120 days of completion of an audit, file the audit report with the President of the Senate and the Speaker of the House of Representatives and shall provide copies to the commissions of the counties set forth in sub-subparagraph 5.b. The books and records, of any facilities receiving compensation from an environmental protection disposal fee, shall be open to the Public Service Commission and the Auditor General for review upon request.

And the title is amended as follows:

On page 9, line 2, of the amendment

after the semicolon, insert: requiring an audit of certain treatment facilities; requiring a report to the Legislature;

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

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

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

CS/CS/HB 617—A bill to be entitled An act relating to youthful offenders; amending s. 944.1905, F.S.; requiring that certain inmates who are less than a specified age be placed in specific correctional facilities and housed in separate dormitories; requiring that the Department of Corrections report to the Legislature on its compliance with the requirements for housing youthful offenders; requiring that certain inmates who are less than a specified age and who have no prior juvenile adjudication be placed in facilities for youthful offenders; providing for the reassignment of an inmate to the general population if the inmate threatens the safety of other inmates or the correctional staff; providing an effective date.

—was read the second time by title.

Representative(s) Harper offered the following:

(Amendment Bar Code: 793979)

Amendment 1 (with title amendment)—
remove from the bill: Everything after the enacting Clause

insert:

Section 1. Subsection (5) is added to section 944.1905, Florida Statutes, to read:

944.1905 Initial inmate classification; inmate reclassification.—The Department of Corrections shall classify inmates pursuant to an objective classification scheme. The initial inmate classification questionnaire and the inmate reclassification questionnaire must cover both aggravating and mitigating factors.

(5)(a) Notwithstanding any other provision of this section, the department shall assign to specific correctional facilities all inmates who are less than 18 years of age and who are not eligible for and have not been assigned to a facility for youthful offenders. Any such inmate who is less than 18 years of age shall be housed in a dormitory that is separate from inmates who are 18 years of age or older. Furthermore, the department shall provide any food service, education, and recreation for such inmate separately from inmates who are 18 years of age or older. The department shall report to the Legislature on compliance with this paragraph by April 1, 2002.

(b) Notwithstanding the requirements of s. 958.11, any inmate who is less than 18 years of age, who was 15 years of age or younger at the time of his or her offense, and who has no prior juvenile adjudication must be placed in a facility for youthful offenders until the inmate is 18 years of age. At the discretion of the department, such an inmate may be placed in a facility for youthful offenders until the inmate is 21 years of age.

(c) Any inmate who is assigned to a facility under paragraph (a) or paragraph (b) shall be removed and reassigned to the general inmate population if his or her behavior threatens the safety of other inmates or correctional staff.

Section 2. Subsection (5) of section 921.0021, Florida Statutes, is amended to read:

921.0021 Definitions.—As used in this chapter, for any felony offense, except any capital felony, committed on or after October 1, 1998, the term:

(5) "Prior record" means a conviction for a crime committed by the offender, as an adult or a juvenile, prior to the time of the primary offense. Convictions by federal, out-of-state, military, or foreign courts, and convictions for violations of county or municipal ordinances that incorporate by reference a penalty under state law, are included in the offender's prior record. Convictions for offenses committed by the offender more than 10 years before the primary offense are not included in the offender's prior record if the offender has not been convicted of any other crime for a period of 10 consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later, to the date of the primary offense. Juvenile dispositions of offenses committed by the offender within *5* ~~3~~ years before the primary offense

are included in the offender's prior record when the offense would have been a crime had the offender been an adult rather than a juvenile. Juvenile dispositions of sexual offenses committed by the offender which were committed *5* ~~3~~ years or more before the primary offense are included in the offender's prior record if the offender has not maintained a conviction-free record, either as an adult or a juvenile, for a period of *5* ~~3~~ consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later, to the date of the primary offense.

Section 3. This act shall take effect July 1, 2001.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to youthful offenders; amending s. 944.1905, F.S.; requiring that certain inmates who are less than a specified age be placed in specific correctional facilities and housed in separate dormitories; requiring that the Department of Corrections report to the Legislature on its compliance with housing youthful offenders; requiring that certain inmates who are less than a specified age and who have no prior juvenile adjudication be placed in facilities for youthful offenders; providing for the reassignment of an inmate to the general population if the inmate threatens the safety of other inmates or correctional staff; amending s. 944.1905, F.S.; requiring that certain inmates who are less than a specified age be placed in specific correctional facilities and housed in separate dormitories; requiring that the Department of Corrections report to the Legislature on its compliance with housing youthful offenders; requiring that certain inmates who are less than a specified age and who have no prior juvenile adjudication be placed in facilities for youthful offenders; providing for the reassignment of an inmate to the general population if the inmate threatens the safety of other inmates or correctional staff; amending s. 921.0021, F.S.; redefining the term "prior record" to extend the time during which the disposition of certain juvenile offenses are included in an offender's record; providing an effective date.

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

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

HB 1777—A bill to be entitled An act relating to educational facilities; amending s. 847.001, F.S.; adding and revising definitions; creating s. 847.0134, F.S.; prohibiting the location of adult entertainment establishments within a specified distance of a school; providing a criminal penalty; providing an exception; providing an effective date.

—was read the second time by title.

The Committee on Crime Prevention, Corrections & Safety offered the following:

(Amendment Bar Code: 831239)

Amendment 1—On page 2, lines 17 through 29,
remove from the bill: all said lines

and insert in lieu thereof: *(c) "Unlicensed massage establishment" means any business or enterprise which offers, sells, or provides, or which holds itself out as offering, selling, or providing massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. "Unlicensed massage establishment" does not include establishments licensed under s. 480.43 that routinely provide medical services by state-licensed health care practitioners and massage therapists licensed under s. 480.041.*

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

The Council for Healthy Communities offered the following:

(Amendment Bar Code: 751573)

Amendment 2—On page 7, line 1,
remove from the bill: *in operation*

and insert in lieu thereof:
that are legally operating or have been granted a permit from a local government to operate as an adult entertainment establishment

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

The Council for Healthy Communities offered the following:

(Amendment Bar Code: 073217)

Amendment 3—On page 1, line 22,
remove from the bill: *, but is not limited to,*

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

Representative(s) Murman offered the following:

(Amendment Bar Code: 063563)

Amendment 4 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 847.001, Florida Statutes, is amended to read:

847.001 Definitions.—When used in this chapter:

(1) "Adult" means a person 18 years of age or older.

(2) "Adult entertainment establishment" means the following terms as defined:

(a) "Adult bookstore" means any corporation, partnership, or business of any kind that restricts or purports to restrict admission only to adults, that has as part of its stock books, magazines, or other periodicals or videos, discs, or other graphic media, and that offers, sells, provides, or rents for a fee any sexually oriented material.

(b) "Adult theater" means an enclosed building or an enclosed space within a building used for presenting either films, live plays, dances, or other performances that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities for observation by patrons and that restricts or purports to restrict admission only to adults.

(c) "Unlicensed massage establishment" means any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing massages, that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. "Unlicensed massage establishment" does not include establishments licensed under s. 480.043 that routinely provide medical services by state-licensed health care practitioners and massage therapists licensed under s. 480.041.

(d) "Special cabaret" means any business that features persons who engage in specific sexual activities for observation by patrons, and that restricts or purports to restrict admission only to adults.

(3)~~(1)~~ "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions and includes any data storage facility or communications facility directly related to or operating in conjunction with such device. The term also includes: any on-line service, Internet service, or local bulletin board; any electronic storage device, including a floppy disk or other magnetic storage device; or any compact disc that has read-only memory and the capacity to store audio, video, or written materials.

(4)~~(2)~~ "Deviate sexual intercourse" means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(5)~~(3)~~ "Harmful to minors" means that quality of any description, exhibition, presentation, or representation, in whatever form, of nudity, sexual conduct, or sexual excitement when it:

(a) Predominantly appeals to the prurient, shameful, or morbid interest of minors;

(b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(c) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

A mother's breastfeeding of her baby is not under any circumstance "harmful to minors."

(6) "Masochism" means sexual gratification achieved by a person through, or the association of sexual activity with, submission or subjection to physical pain, suffering, humiliation, torture, or death.

(7)~~(4)~~ "Minor" means any person under the age of 18 years.

(8)~~(5)~~ "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother's breastfeeding of her baby does not under any circumstance constitute "nudity," irrespective of whether or not the nipple is covered during or incidental to feeding.

(9)~~(6)~~ "Person" includes individuals, firms, associations, corporations, and all other groups and combinations.

(10)~~(7)~~ "Obscene" means the status of material which:

(a) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;

(b) Depicts or describes, in a patently offensive way, sexual conduct as specifically defined herein; and

(c) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

A mother's breastfeeding of her baby is not under any circumstance "obscene."

(11) "Sadism" means sexual gratification achieved through, or the association of sexual activity with, the infliction of physical pain, suffering, humiliation, torture, or death upon another person or an animal.

(12)~~(8)~~ "Sadomasochistic abuse" means flagellation or torture by or upon a person or animal, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction, or satisfaction brought about as a result of sadistic violence, from inflicting harm on another or receiving such harm oneself.

(13)~~(9)~~ "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, "sexual battery" does not include an act done for a bona fide medical purpose.

(14)~~(10)~~ "Sexual bestiality" means any sexual act*, actual or simulated,* between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(15)~~(11)~~ "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."

(16)~~(12)~~ "Sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

(17) "Sexually oriented material" means any book, article, magazine, publication, or written matter of any kind or any drawing, etching, painting, photograph, motion picture film, or sound recording that depicts sexual activity, actual or simulated, involving human beings or human beings and animals, that exhibits uncovered human genitals or the pubic region in a lewd or lascivious manner, or that exhibits human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(18)~~(13)~~ "Simulated" means the explicit depiction of conduct described in subsection *(15)* ~~(11)~~ which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

(19) "Specific sexual activities" includes the following sexual activities and the exhibition of the following anatomical areas:

(a) Human genitals in the state of sexual stimulation or arousal.

(b) Acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio, or any excretory function, or representation thereof.

(c) The fondling or erotic touching of human genitals, the pubic region, the buttocks, or the female breasts.

(d) Less than completely and opaquely covered:

1. Human genitals or the pubic region.

2. Buttocks.

3. Female breasts below the top of the areola.

4. Human male genitals in a discernably turgid state, even if completely and opaquely covered.

Section 2. Section 847.0134, Florida Statutes, is created to read:

847.0134 Prohibition of adult entertainment establishment that displays, sells, or distributes materials harmful to minors within 2,500 feet a school.—

(1) Except for those establishments that are legally operating or have been granted a permit from a local government to operate as an adult entertainment establishment on or before July 1, 2001, an adult entertainment establishment that sells, rents, loans, distributes, transmits, shows, or exhibits any obscene material, as described in s. 847.0133, or presents live entertainment or a motion picture, slide, or other exhibit that, in whole or in part, depicts nudity, sexual conduct, sexual excitement, sexual battery, sexual bestiality, or sadomasochistic abuse and that is harmful to minors, as described in s. 847.001, may not be located within 2,500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location under proceedings as provided in s. 125.66(4) for counties or s. 166.041(3)(c) for municipalities.

(2) A violation of this section constitutes a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

Section 3. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 9,

insert:

WHEREAS, based upon the experience and research of other counties and cities and the personal observation of the legislators in their own

districts, the Legislature finds that adult entertainment establishments cause adverse affects in and around these establishments, and

WHEREAS, relevant studies demonstrate a significant increase in crime in areas where adult entertainment establishments are located, and

WHEREAS, the United States Supreme Court has recognized the adverse secondary effects caused by adult entertainment establishments in Renton v. Playtime Theatres, 475 U.S. 41 (1986) and Erie v. Pap's, 529 U.S. 277 (2000), and

WHEREAS, prohibiting adult entertainment establishments that show or exhibit material obscene or harmful to minors near public or private elementary schools, middle schools, or secondary schools will serve to protect minors from the adverse effects of the activities that accompany such establishments, and

WHEREAS, the Legislature does not intend to impinge on the First Amendment rights of free speech by limiting the location of these establishments to keep them away from schools where minors will be present, NOW, THEREFORE,

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

Rep. Richardson moved that, under Rule 12.2(c), a late-filed amendment be allowed for consideration, which was not agreed to.

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

On motion by Rep. Byrd, the House moved to the consideration of CS/HB 199 on Special Orders.

CS/HB 199—A bill to be entitled An act relating to substance abuse treatment programs; providing goals for treatment-based drug courts; requiring judicial circuits to establish a model of treatment-based drug courts for certain purposes; providing criteria; providing legislative intent; providing certain principles for operating drug courts; establishing a drug court coordinator in each judicial circuit for certain purposes; providing for inclusion of certain programs in such courts; amending s. 910.035, F.S.; providing for transferring persons eligible for participation in drug court treatment programs to other jurisdictions under certain circumstances; providing criteria, requirements, and limitations; amending s. 948.08, F.S.; adding persons charged with specified crimes to the list of persons eligible for admission into a pretrial substance abuse program; creating s. 948.16, F.S.; providing for a misdemeanor pretrial substance abuse education and treatment intervention program; providing for admitting certain persons to the program under certain circumstances; providing for disposition of persons in the program; providing criteria; providing contracting requirements for entities providing such a program; providing an effective date.

—was read the second time by title.

Representative(s) Trovillion offered the following:

(Amendment Bar Code: 662361)

Amendment 1 (with title amendment)—On page 4, lines 6 through 27
remove from the bill: all of said lines

and insert in lieu thereof:

(4) Treatment-based drug courts may include pretrial intervention programs as provided in ss. 948.08, 948.16, and 985.306, Florida Statutes.

(5)(a) The Florida Association of Drug Court Professionals is created. The membership of the association may consist of drug court practitioners who comprise the multidisciplinary drug court team, including, but not limited to, judges, state attorneys, defense counsel, drug court coordinators, probation officers, law enforcement officers, members of the academic community, and treatment professionals. Membership in the association shall be voluntary.

And the title is amended as follows:

On page 1, lines 9 and 10
remove from the title of the bill: all of said lines

and insert in lieu thereof: courts;

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

Representative(s) Trovillion offered the following:

(Amendment Bar Code: 855907)

Amendment 2—On page 6, lines 9-31 and page 7, lines 1-4
remove from the bill: all of said lines

and insert in lieu thereof: (6)(a) Notwithstanding any provision of this section, a person who is charged with a felony of the second or third degree for purchase or possession of a controlled substance under chapter 893, *tampering with evidence, solicitation for purchase, obtaining a prescription by fraud, and who has not been charged with a crime, involving violence, including but not limited to, murder, sexual battery, robbery, car jacking, home-invasion robbery, or any other crime involving violence* and who has not previously been convicted of a felony nor been admitted to a *felony* pretrial program referred to in this section, is eligible for admission into a pretrial substance abuse education and treatment intervention program approved by the chief judge of the circuit, for a period of not less than 1 year in duration, upon motion of either party or the courts own motion, except:

1. If a defendant was previously offered admission to a pretrial substance abuse education and treatment intervention program at any time prior to trial and the defendant rejected that offer on the record, then the court or the state attorney may deny the defendant's admission to such a program.

2. If the state attorney believes that the facts and circumstances of the case suggest the defendant's involvement in the dealing and selling of controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in the dealing or selling of controlled substances, the court shall deny the defendant's admission into a pretrial intervention program.

(7) The chief judge in each circuit may appoint an advisory committee for the pretrial intervention program composed of the chief judge or his or her designee, who shall serve as chair; the state attorney, the public defender, and the program administrator, or their designees; and such other persons as the chair deems appropriate. *The advisory committee may not designate any defendant eligible for a pretrial intervention program for any offense not listed under section 948.08(6)(a) without the state attorney's recommendation and approval.* The committee may also include persons representing any other agencies to which persons released to the pretrial intervention program may be referred.

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

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

On motion by Rep. Byrd, the House moved to the consideration of HB 1039 on Special Orders.

HB 1039—A bill to be entitled An act relating to ad valorem tax exemption; amending s. 196.24, F.S.; increasing the amount of the exemption provided under s. 3(b), Art. VII of the State Constitution for certain disabled ex-service members; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

On motion by Rep. Byrd, the House moved to the consideration of HB 1429 on Special Orders.

HB 1429—A bill to be entitled An act relating to automatic external defibrillators; creating s. 768.1325, F.S.; creating the Cardiac Arrest

Survival Act; providing definitions; providing immunity from liability for certain persons who use automatic external defibrillators under certain circumstances; providing exceptions; repealing s. 768.13(4), F.S., relating to the Good Samaritan Act, to delete reference to the use of an automatic external defibrillator in certain emergency situations; amending s. 401.2915, F.S.; revising a provision of law relating to automatic external defibrillators to conform to the act; providing an effective date.

—was taken up, having been read the second time on April 26; now pending on motion by Rep. Murman to adopt Amendment 1 (shown in the *Journal* on page 851).

The question recurred on the adoption of **Amendment 1 to Amendment 1**, which was withdrawn.

The question recurred on the adoption of **Amendment 1**.

Representative(s) Byrd offered the following:

(Amendment Bar Code: 615089)

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

and insert in lieu thereof:

Section 1. Section 768.1325, Florida Statutes, is created to read:

768.1325 Cardiac Arrest Survival Act; immunity from civil liability.—

(1) This section may be cited as the "Cardiac Arrest Survival Act."

(2) As used in this section:

(a) "Perceived medical emergency" means circumstances in which the behavior of an individual leads a reasonable person to believe that the individual is experiencing a life-threatening medical condition that requires an immediate medical response regarding the heart or other cardiopulmonary functioning of the individual.

(b) "Automated external defibrillator device" means a defibrillator device that:

1. Is commercially distributed in accordance with the Federal Food, Drug, and Cosmetic Act.

2. Is capable of recognizing the presence or absence of ventricular fibrillation, and is capable of determining without intervention by the user of the device whether defibrillation should be performed.

3. Upon determining that defibrillation should be performed, is able to deliver an electrical shock to an individual.

(c) "Harm" means damage or loss of any and all types, including, but not limited to, physical, nonphysical, economic, noneconomic, actual, compensatory, consequential, incidental, and punitive damages or losses.

(3) Notwithstanding any other provision of law to the contrary, and except as provided in subsection (4), any person who uses or attempts to use an automated external defibrillator device on a victim of a perceived medical emergency, without objection of the victim of the perceived medical emergency, is immune from civil liability for any harm resulting from the use or attempted use of such device. In addition, any person who acquired the device is immune from such liability, if the harm was not due to the failure of such acquirer of the device to:

(a) Notify the local emergency medical services medical director of the most recent placement of the device within a reasonable period of time after the device was placed;

(b) Properly maintain and test the device; or

(c) Provide appropriate training in the use of the device to an employee or agent of the acquirer when the employee or agent was the person who used the device on the victim, except that such requirement of training does not apply if:

1. The employee or agent was not an employee or agent who would have been reasonably expected to use the device; or

2. The period of time elapsing between the engagement of the person as an employee or agent and the occurrence of the harm, or between the acquisition of the device and the occurrence of the harm in any case in which the device was acquired after engagement of the employee or agent, was not a reasonably sufficient period in which to provide the training.

(4) Immunity under subsection (3) does not apply to a person if:

(a) The harm involved was caused by that person's willful or criminal misconduct, gross negligence, reckless disregard or misconduct, or a conscious, flagrant indifference to the rights or safety of the victim who was harmed;

(b) The person is a licensed or certified health professional who used the automated external defibrillator device while acting within the scope of the license or certification of the professional and within the scope of the employment or agency of the professional;

(c) The person is a hospital, clinic, or other entity whose primary purpose is providing health care directly to patients, and the harm was caused by an employee or agent of the entity who used the device while acting within the scope of the employment or agency of the employee or agent;

(d) The person is an acquirer of the device who leased the device to a health care entity, or who otherwise provided the device to such entity for compensation without selling the device to the entity, and the harm was caused by an employee or agent of the entity who used the device while acting within the scope of the employment or agency of the employee or agent; or

(e) The person is the manufacturer of the device.

(5) This section does not establish any cause of action. This section does not require that an automated external defibrillator device be placed at any building or other location or require an acquirer to make available on its premises one or more employees or agents trained in the use of the device.

Section 2. *Subsection (4) of section 768.13, Florida Statutes, is repealed.*

Section 3. Section 401.2915, Florida Statutes, is amended to read:

401.2915 *Automated* ~~Automatic~~ external defibrillators.—It is the intent of the Legislature that an *automated* ~~automatic~~ external defibrillator may be used by any person for the purpose of saving the life of another person in cardiac arrest. In order to ensure public health and safety:

(1) All persons who ~~have access to or~~ use an *automated* ~~automatic~~ external defibrillator must obtain appropriate training, to include completion of a course in cardiopulmonary resuscitation or successful completion of a basic first aid course that includes cardiopulmonary resuscitation training, and demonstrated proficiency in the use of an *automated* ~~automatic~~ external defibrillator;

(2) Any person or entity in possession of an *automated* ~~automatic~~ external defibrillator is encouraged to register with the local emergency medical services medical director the existence and location of the *automated* ~~automatic~~ external defibrillator; and

(3) Any person who uses an *automated* ~~automatic~~ external defibrillator is required to activate the emergency medical services system as soon as possible upon use of the *automated* ~~automatic~~ external defibrillator.

Section 4. *No later than January 1, 2003, the Secretary of the Department of Health shall adopt rules to establish guidelines on the appropriate placement of automated external defibrillator devices in buildings or portions of buildings owned or leased by the state, and shall establish, by rule, recommendations on procedures for the deployment of automated external defibrillator devices in such buildings in accordance with the guidelines. The Secretary of the Department of Management*

Services shall assist the Secretary of the Department of Health in the development of the guidelines. The guidelines for the placement of the automated external defibrillators shall take into account the typical number of employees and visitors in the buildings, the extent of the need for security measures regarding the buildings, special circumstances in buildings or portions of buildings such as high electrical voltages or extreme heat or cold, and such other factors as the Secretaries determine to be appropriate. The Secretary of the Department of Health's recommendations for deployment of automated external defibrillators in buildings or portions of buildings owned or leased by the state shall include:

(a) A reference list of appropriate training courses in the use of such devices, including the role of cardiopulmonary resuscitation;

(b) The extent to which such devices may be used by laypersons;

(c) Manufacturer recommended maintenance and testing of the devices; and

(d) Coordination with local emergency medical services systems regarding the incidents of use of the devices.

In formulating these guidelines and recommendations, the Secretary may consult with all appropriate public and private entities, including national and local public health organizations that seek to improve the survival rates of individuals who experience cardiac arrest.

Section 5. This act shall take effect October 1, 2001.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: An act relating to automated external defibrillators; creating s. 768.1325, F.S.; creating the Cardiac Arrest Survival Act; providing definitions; providing immunity from liability for certain persons who use automated external defibrillators under certain circumstances; providing exceptions; repealing s. 768.13(4), F.S., relating to the Good Samaritan Act, to delete reference to the use of an automatic external defibrillator in certain emergency situations; amending s. 401.2915, F.S.; revising a provision of law relating to automatic external defibrillators to conform to the act; directing the Department of Health, with assistance from the Department of Management Services, to adopt rules to establish guidelines on the appropriate placement and deployment of automated external defibrillator devices in certain buildings owned or leased by the state; specifying factors to be considered in device placement and deployment; providing an effective date.

WHEREAS, over 700 lives are lost every day to sudden cardiac arrest in the United States alone, and

WHEREAS, two out of every three sudden cardiac deaths occur before a victim can reach a hospital, and

WHEREAS, more than 95 percent of these cardiac arrest victims will die, many because of lack of readily available lifesaving medical equipment, and

WHEREAS, with current medical technology, up to 30 percent of cardiac arrest victims could be saved if victims had access to immediate medical response, including defibrillation and cardiopulmonary resuscitation, and

WHEREAS, once a victim has suffered a cardiac arrest, every minute that passes before returning the heart to a normal rhythm decreases the chances of survival by 10 percent, and

WHEREAS, most cardiac arrests are caused by an abnormal heart rhythm called ventricular fibrillation, which occurs when the heart's electrical system malfunctions, causing a chaotic rhythm that prevents the heart from pumping oxygen to the victim's brain and body, and

WHEREAS, communities that have implemented programs ensuring widespread access to defibrillators, combined with appropriate training, maintenance, and coordination with local emergency medical systems have dramatically improved the survival rates from cardiac arrest, and

WHEREAS, automated external defibrillator devices have been demonstrated to be safe and effective, even when used by laypersons, since the devices are designed not to allow a user to administer a shock until after the device has analyzed a victim's heart rhythm and determined that an electric shock is required, and

WHEREAS, increased public awareness regarding automated external defibrillator devices will greatly facilitate their adoption, and

WHEREAS, limiting the liability of users and acquirers of automated external defibrillator devices in emergency situations may encourage the use of the devices, and result in saved lives, NOW, THEREFORE,

Rep. Byrd moved the adoption of the substitute amendment, which was adopted.

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

On motion by Rep. Byrd, the House moved to the consideration of CS/CS/HB 1121 on Special Orders.

CS/CS/HB 1121—A bill to be entitled An act relating to driver licenses; amending s. 322.02, F.S.; providing legislative intent with regard to the delivery of driver license services; authorizing county tax collectors to serve as exclusive agents of the Department of Highway Safety and Motor Vehicles; amending s. 322.135, F.S.; providing an application process for county tax collectors to serve as exclusive agents; creating the Cost Determination and Allocation Task Force; establishing the duties and responsibilities of the task force; providing for the development of transition plans to transfer certain responsibilities to tax collectors; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1431—A bill to be entitled An act relating to welfare transition; providing a short title; providing legislative intent; authorizing the Passport to Economic Progress demonstration program in specified areas; requiring Workforce Florida, Inc., and the Department of Children and Family Services to pursue federal government waivers as necessary; increasing the amount of income that may be disregarded in determining eligibility for temporary cash assistance for families residing in the demonstration areas; authorizing an extended period of time for the receipt of welfare-transition benefits by families residing in the demonstration areas; providing legislative findings; directing Workforce Florida, Inc., to create a transitional wage supplementation program; authorizing wage supplementation payments to certain individuals; requiring an evaluation and reports on the demonstration program; providing for conflicts of laws; providing appropriations; providing an effective date.

—was read the second time by title.

The Committee on Workforce & Technical Skills offered the following:

(Amendment Bar Code: 641455)

Amendment 1 (with title amendment)—On page 3, line 22-25,
remove from the bill: all said lines

and insert in lieu thereof: *(2)WAIVERS.—If Workforce Florida, Inc., in consultation with the Department of Children and Family Services, finds that federal waivers would facilitate implementation of the demonstration program, the department shall immediately request such waivers, and Workforce Florida, Inc., shall report to the Governor, the President of the*

And the title is amended as follows:

On page 1, line 6
remove from the title of the bill: all said lines

and insert in lieu thereof: areas; requiring

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

Representative(s) Lerner offered the following:

(Amendment Bar Code: 333035)

Amendment 2 (with title amendment)—On page 7, between lines 18 and 19, of the bill

insert:

Section 4. Subsection (3) is added to section 414.31, Florida Statutes, to read:

414.31 State agency for administering federal food stamp program.—

(3) The state elects, within the provisions of Pub. L. No. 106-387, to adopt more liberal methodologies for valuing vehicles as assets for purposes of food stamp eligibility than the regular food stamp rules allow. The department is directed to exclude from consideration as an asset the value of the vehicles of food stamp applicants and recipients to the same extent that vehicles' values are financially excluded as assets under any program providing assistance under the state program funded under part A of Title IV of the Social Security Act. Additionally, the department shall apply the most favorable rules of resource exclusion, and the most favorable rules for treating nonprimary vehicles, from either the food stamp program or any program providing assistance under the state program funded under part A of Title IV of the Social Security Act. The department is authorized to adopt rules to implement this subsection, which rules shall be implemented no later than January 1, 2002.

And the title is amended as follows:

On page 1, line 22,

after the semicolon, insert: amending s. 414.31, F.S.; providing a methodology for valuing vehicles as assets for purposes of food stamp eligibility; providing rulemaking authority; providing a deadline for implementation;

Rep. Lerner moved the adoption of the amendment, which failed of adoption.

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

CS/HB 9—A bill to be entitled An act relating to solid waste management facilities; amending s. 403.707, F.S.; requiring an applicant for a permit to construct or modify such a facility to notify the local government of the filing of such application; requiring publication of notice of such filing; providing requirements with respect thereto; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 073535)

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

and insert in lieu thereof:

Section 1. Subsection (14) is added to section 403.707, Florida Statutes, to read:

403.707 Permits.—

(14) Before or on the same day of filing with the department of an application for a permit to construct or substantially modify a solid waste management facility, the applicant shall notify the local government having jurisdiction over the facility of the filing of the application. The applicant also shall publish notice of the filing of the application in a newspaper of general circulation in the area where the facility will be located. Notice shall be given and published in accordance with applicable department rules. The department shall not issue the requested permit until the applicant has provided the department with proof that the notices required by this subsection have been given. Issuance of a permit does not relieve an applicant from compliance with local zoning or land use ordinances, or with any other law, rules, or ordinances.

Section 2. Section 403.71851, Florida Statutes, is amended to read:

403.71851 *Electronic recycling* ~~Lead-containing materials~~ grants.—The Department of Environmental Protection is authorized to use funds from the Solid Waste Management Trust Fund as grants to Florida-based businesses *with 5 or more years' experience in electronics recycling* that recycle *electronics such as commercial telephone switching equipment, computers, televisions,* ~~lead-acid batteries and other lead-containing materials, including products such as televisions and~~ computer monitors *and other products* that utilize lead-containing cathode ray tubes. This ~~incentive~~ funding *shall* ~~may~~ be used for *demonstration projects with one or more counties for countywide comprehensive electronics recycling where that term means recycling that provides service to the private sector, nonprofit organizations, governmental agencies and the residential sector. This funding may also be used for grants to counties to develop methods to collect and transport electronics to be recycled provided such methods are comprehensive in nature* ~~research and development in methods to recover and recycle lead from the environment; for innovative technologies and equipment to process and recycle lead-containing materials; and for establishing an infrastructure to collect and transport lead-containing material to Florida-based recycling businesses~~.

Section 3. *The Department of Environmental Protection shall conduct a comprehensive review of the waste reduction and recycling goals set out in this section and other legislative requirements in view of reduced available funding for these purposes. The review shall include, but is not limited to, the appropriateness of maintaining, extending, or revising the goals; the effectiveness of current programs for meeting the goals; the role of Keep Florida Beautiful, Inc.; the need to continue those programs; alternative techniques for improving those programs; and alternative strategies for meeting the needs of the programs. The department shall consult with persons knowledgeable about recycling and waste reduction, including, but not limited to, representatives of local government, the private recycling industry, and private waste management industry. The department shall issue its report and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by September 30, 2001.*

Section 4. This act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, lines 4-9,
remove from the title of the bill: all of said lines

and insert in lieu thereof: requiring an applicant for a permit to construct or modify a solid waste management facility to notify the local government of the filing of application; requiring publishing of the application; providing requirements with respect thereto; amending s. 403.71851, F.S.; providing for electronics recycling grants; providing that grant funding shall be used for certain demonstration projects; providing for the Department of Environmental Protection to conduct a comprehensive review of certain waste reduction and recycling goals and other related legislative requirements; providing that the department must issue a report;

Rep. Ball moved the adoption of the amendment.

Representative(s) Ball offered the following:

(Amendment Bar Code: 305905)

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

and insert in lieu thereof:

Section 1. Paragraph (f) of subsection (1) of section 165.061, Florida Statutes, is added, and paragraph (d) of subsection (2) is amended to said section, to read:

165.061 Standards for incorporation, merger, and dissolution.—

(1) The incorporation of a new municipality, other than through merger of existing municipalities, must meet the following conditions in the area proposed for incorporation:

(f) In accordance with s. 10, Art. I of the State Constitution, the plan for incorporation must honor existing solid waste contracts in the affected geographic area subject to incorporation; however, the plan for incorporation may provide that existing contracts for solid waste collection services shall be honored only for 5 years or the remainder of the contract term, whichever is shorter, excluding any automatic renewals or so-called "evergreen" provisions, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, be provided to the municipality within a reasonable time following a written request to do so.

(2) The incorporation of a new municipality through merger of existing municipalities and associated unincorporated areas must meet the following conditions:

(d) In accordance with s. 10, Art. I of the State Constitution, the plan for merger ~~or incorporation~~ must honor existing solid waste contracts in the affected geographic area subject to merger ~~or incorporation~~; however, the plan for merger ~~or incorporation~~ may provide that existing contracts for solid waste collection services shall be honored only for 5 years or the remainder of the contract term, whichever is shorter, excluding any automatic renewals or so-called "evergreen" provisions, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, be provided to the municipality within a reasonable time following a written request to do so.

Section 2. Subsection (14) is added to section 403.707, Florida Statutes, to read:

403.707 Permits.—

(14) Before or on the same day of filing with the department of an application for a permit to construct or substantially modify a solid waste management facility, the applicant shall notify the local government having jurisdiction over the facility of the filing of the application. The applicant also shall publish notice of the filing of the application in a newspaper of general circulation in the area where the facility will be located. Notice shall be given and published in accordance with applicable department rules. The department shall not issue the requested permit until the applicant has provided the department with proof that the notices required by this subsection have been given. Issuance of a permit does not relieve an applicant from compliance with local zoning or land use ordinances, or with any other law, rules, or ordinances.

Section 3. Section 403.71851, Florida Statutes, is amended to read:

403.71851 *Electronic recycling* ~~Lead-containing materials~~ grants.—The Department of Environmental Protection is authorized to use funds from the Solid Waste Management Trust Fund as grants to Florida-based businesses *with 5 or more years' experience in electronics recycling* that recycle *electronics such as commercial telephone switching equipment, computers, televisions,* ~~lead-acid batteries and other lead-containing materials, including products such as televisions and~~ computer monitors *and other products* that utilize lead-containing cathode ray tubes. This ~~incentive~~ funding *shall* ~~may~~ be used for *demonstration projects with one or more counties for countywide comprehensive electronics recycling where that term means recycling that provides service to the private sector, nonprofit organizations, governmental agencies and the residential sector. This funding may also be used for grants to counties to develop methods to collect and transport electronics to be recycled provided such methods are comprehensive in nature* ~~research and development in methods to recover and recycle lead from the environment; for innovative technologies and equipment to process and recycle lead-containing materials; and for establishing an infrastructure to collect and transport lead-containing material to Florida-based recycling businesses~~.

Section 4. *The Department of Environmental Protection shall conduct a comprehensive review of the waste reduction and recycling goals set out in this section and other legislative requirements in view of reduced available funding for these purposes. The review shall include, but is not limited to, the appropriateness of maintaining, extending, or revising the goals; the effectiveness of current programs for meeting the goals; the role of Keep Florida Beautiful, Inc.; the need to continue those programs; alternative techniques for improving those programs; and alternative strategies for meeting the needs of the programs. The department shall consult with persons knowledgeable about recycling and waste reduction, including, but not limited to, representatives of local government, the private recycling industry, and private waste management industry. The department shall issue its report and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by September 30, 2001.*

Section 5. This act shall take July 1, 2001.

And the title is amended as follows:

On page 1, lines 2 through 9
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to solid waste management; amending s. 165.061, F.S.; providing for the continuation of existing solid waste contracts; requiring written evidence of the duration of the contract within a specified timeframe; amending s. 403.707, F.S.; requiring an applicant for a permit to construct or modify a solid waste management facility to notify the local government of the filing of application; requiring publishing of the application; providing requirements with respect thereto; amending s. 403.71851, F.S.; providing for electronics recycling grants; providing that grant funding shall be used for certain demonstration projects; providing for the Department of Environmental Protection to conduct a comprehensive review of certain waste reduction and recycling goals and other related legislative requirements; providing that the department must issue a report; providing an effective date.

Rep. Ball moved the adoption of the substitute amendment.

Representative(s) Ball offered the following:

(Amendment Bar Code: 590413)

Amendment 1 to Substitute Amendment 1—On page 4, lines 3 through 20,
remove from the substitute amendment: all of said lines

and insert in lieu thereof:

Section 4. *The Department of Environmental Protection shall conduct a comprehensive review of the waste reduction and recycling goals set out in part IV of chapter 403, Florida Statutes, and other legislative requirements in view of reduced available funding for these purposes. The review shall include, but is not limited to, the appropriateness of maintaining, extending, or revising the goals; the effectiveness of current programs for meeting the goals; the role of Keep Florida Beautiful, Inc.; the need to continue those programs; alternative techniques for improving those programs; alternative strategies for meeting the needs of the programs; and any other issues related to resource recovery and management. The department shall consult with persons knowledgeable about recycling and waste reduction, including, but not limited to, representatives of local government, the private recycling industry, and the private waste management industry. The department shall issue its report, recommendations, and proposed legislative changes to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 31, 2001.*

Section 5. This act shall take effect July 1, 2001.

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

The question recurred on the adoption of **Substitute Amendment 1**, as amended, which was adopted.

Reconsideration

The House reconsidered the vote by which **Substitute Amendment 1**, as amended, was adopted.

The question recurred on the adoption of **Substitute Amendment 1**, as amended, which was adopted.

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 093141)

Amendment 2 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (f) of subsection (1) of section 165.061, Florida Statutes, is added, and paragraph (d) of subsection (2) is amended to said section, to read:

165.061 Standards for incorporation, merger, and dissolution.—

(1) The incorporation of a new municipality, other than through merger of existing municipalities, must meet the following conditions in the area proposed for incorporation:

(f) In accordance with s. 10, Art. I of the State Constitution, the plan for incorporation must honor existing solid waste contracts in the affected geographic area subject to incorporation; however, the plan for incorporation may provide that existing contracts for solid waste collection services shall be honored only for 5 years or the remainder of the contract term, whichever is shorter, excluding any automatic renewals or so-called "evergreen" provisions, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, be provided to the municipality within a reasonable time following a written request to do so.

(2) The incorporation of a new municipality through merger of existing municipalities and associated unincorporated areas must meet the following conditions:

(d) In accordance with s. 10, Art. I of the State Constitution, the plan for merger ~~or incorporation~~ must honor existing solid waste contracts in the affected geographic area subject to merger ~~or incorporation~~; however, the plan for merger ~~or incorporation~~ may provide that existing contracts for solid waste collection services shall be honored only for 5 years or the remainder of the contract term, whichever is shorter, excluding any automatic renewals or so-called "evergreen" provisions, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, be provided to the municipality within a reasonable time following a written request to do so.

Section 2. Subsection (14) is added to section 403.707, Florida Statutes, to read:

403.707 Permits.—

(14) Before or on the same day of filing with the department of an application for a permit to construct or substantially modify a solid waste management facility, the applicant shall notify the local government having jurisdiction over the facility of the filing of the application. The applicant also shall publish notice of the filing of the application in a newspaper of general circulation in the area where the facility will be located. Notice shall be given and published in accordance with applicable department rules. The department shall not issue the requested permit until the applicant has provided the department with proof that the notices required by this subsection have been given. Issuance of a permit does not relieve an applicant from compliance with local zoning or land use ordinances, or with any other law, rules, or ordinances.

Section 3. Section 403.71851, Florida Statutes, is amended to read:

403.71851 *Electronic recycling* ~~Lead-containing materials~~ grants.—The Department of Environmental Protection is authorized to use funds from the Solid Waste Management Trust Fund as grants to Florida-based businesses *with 5 or more years' experience in electronics recycling* that recycle *electronics such as commercial telephone switching equipment, computers, televisions,* ~~lead-acid batteries and other lead-containing materials, including products such as televisions and~~ computer monitors *and other products* that utilize lead-containing cathode ray tubes. This ~~incentive~~ funding *shall* ~~may~~ be used for *demonstration projects with one or more counties for countywide comprehensive electronics recycling where that term means recycling that provides service to the private sector, nonprofit organizations, governmental agencies and the residential sector. This funding may also be used for grants to counties to develop methods to collect and transport electronics to be recycled provided such methods are comprehensive in nature* ~~research and development in methods to recover and recycle lead from the environment; for innovative technologies and equipment to process and recycle lead-containing materials; and for establishing an infrastructure to collect and transport lead-containing material to Florida-based recycling businesses~~.

Section 4. *The Department of Environmental Protection shall conduct a comprehensive review of the waste reduction and recycling goals set out in this section and other legislative requirements in view of reduced available funding for these purposes. The review shall include, but is not limited to, the appropriateness of maintaining, extending, or revising the goals; the effectiveness of current programs for meeting the goals; the role of Keep Florida Beautiful, Inc.; the need to continue those programs; alternative techniques for improving those programs; and alternative strategies for meeting the needs of the programs. The department shall consult with persons knowledgeable about recycling and waste reduction, including, but not limited to, representatives of local government, the private recycling industry, and private waste management industry. The department shall issue its report and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by September 30, 2001.*

Section 5. This act shall take July 1, 2001.

And the title is amended as follows:

On page 1, lines 2 through 9
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to solid waste management; amending s. 165.061, F.S.; providing for the continuation of existing solid waste contracts; requiring written evidence of the duration of the contract within a specified timeframe; amending s. 403.707, F.S.; requiring an applicant for a permit to construct or modify a solid waste management facility to notify the local government of the filing of application; requiring publishing of the application; providing requirements with respect thereto; amending s. 403.71851, F.S.; providing for electronics recycling grants; providing that grant funding shall be used for certain demonstration projects; providing for the Department of Environmental Protection to conduct a comprehensive review of certain waste reduction and recycling goals and other related legislative requirements; providing that the department must issue a report; providing an effective date.

Rep. Ball moved the adoption of the amendment, which failed of adoption.

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

CS/HB 1361—A bill to be entitled An act relating to charter schools; amending s. 228.056, F.S.; prohibiting a public school from using the word "charter" in its name unless it is currently operating under a charter that has been granted pursuant to this section; providing additional purposes of charter schools; requiring a public school to have been in operation for at least 2 years prior to application to convert to charter school status; requiring a school board to provide notice of denial to charter school applicant in writing; prohibiting a sponsor from charging a fee related to the consideration of a charter school application; prohibiting the consideration or approval of a charter school application from being contingent on the promise of future payment of any kind; clarifying provisions relating to appeals of denial of charter

school applications; deleting provisions relating to failure to act in accordance with the recommendation of the State Board of Education regarding a charter school application; exempting a charter school from a sponsor's policies; authorizing charter school cooperatives; deleting a cap on the number of newly created charter schools; authorizing students in a charter school-in-a-development or charter school-in-a-municipality as a condition of eligibility; authorizing students articulating from one charter school to another as a condition of eligibility; authorizing the establishment of reasonable academic, artistic, or other standards as a condition for eligibility; requiring the capacity of a charter school to be annually determined by the charter school's governing body based on certain factors; allowing required financial records to follow accounting principles for not-for-profit organizations; requiring a charter to address the identification and acquisition of appropriate technologies; requiring a charter to address how a school board shall provide academic student performance data to charter schools; requiring a charter to address means for ensuring accountability; requiring a charter to address a description of delineated responsibilities needed to effectively manage the charter school; requiring a charter to address procedures that identify risks and provide an approach to remove the impact of losses; requiring a charter to include a financial plan for the facilities to be used; requiring a charter to address the strategies used to recruit qualified staff; requiring the governing body to exercise continuing oversight over charter school operations; providing for appeal of a sponsor's decision to terminate a charter; providing for a charter school governing board to request a waiver of statutes directly from the commissioner, rather than through the sponsor; providing for notice of receipt and final disposition of such request; stipulating that a charter school may not knowingly employ an individual whose certification has been revoked by this or any other state; requiring student enrollment report to be submitted in a certain format; prohibiting a sponsor from withholding an administrative fee from certain funds; requiring PECO maintenance funds to remain with a conversion charter school; authorizing the establishment of a charter school-in-a-development and a charter school-in-a-municipality; amending s. 228.0561, F.S.; deleting current capital outlay distribution methods; requiring the Department of Education to distribute capital outlay funds on a monthly basis; amending s. 228.058, F.S.; requiring public schools in a charter school district to vote by a time certain to convert to a charter school; amending s. 232.425, F.S.; authorizing charter school students to participate at the public school to which the student would be assigned in any interscholastic extracurricular activity of that school; providing an effective date.

—was read the second time by title.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 722679)

Amendment 1—On page 32, line 12, of the bill

insert:

(i) If any financings permitted by this section, s. 228.056, or any successor provision of law, are structured by a charter school so that interest paid by the charter school will be excluded from the gross income of the recipient for federal income tax purposes, the appropriate district school board shall expedite consideration of adoption of any resolution submitted to it within 30 days or at the next board meeting following the request of the charter school, whichever is most expedient for the charter school, by or on behalf of the charter school, for adoption for the purposes of Revenue Procedure 82-26 of the Internal Revenue Service, or any successor revenue procedure. This section shall be liberally construed in order to achieve the purposes stated herein.

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

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 944569)

Amendment 2—On page 35, lines 12 and 22,
remove from the bill: *involves*

and insert in lieu thereof: *involves, but is not limited to,*

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

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 120299)

Amendment 3—On page 18, between lines 6 and 7, of the bill

insert: *(j) The governing board of a charter school shall annually adopt and maintain an operating budget.*

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

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 410721)

Amendment 4—On page 28, line 18,
remove from the bill: *parents*

and insert in lieu thereof: *a parent at the time the parent submits an admission application to a charter school.*

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

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 900047)

Amendment 5—On page 32, lines 3 and 4,
remove from the bill: all of said lines

and insert in lieu thereof: *the facility pursuant to s. 235.435(1)(a), and operated as a conversion school shall remain with the conversion school as a credit for fixed capital outlay maintenance needs, and against which, necessary and proper fixed capital outlay maintenance expenses attributable to the conversion school shall be deducted.*

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

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 384497)

Amendment 6—On page 16, line 9,
remove from the bill: *board*

and insert in lieu thereof: *board, in conjunction with the sponsor,*

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

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 805409)

Amendment 7—On page 25, line 11,
remove from the bill: all of said line

and insert in lieu thereof: assume operation of the school under these circumstances. *With the exception of those instances when a charter is immediately terminated because the sponsor determines that the health, safety, or welfare of students is threatened, the*

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

Representative(s) Melvin and Mack offered the following:

(Amendment Bar Code: 495965)

Amendment 8—On page 33, lines 1 & 2,
remove from the bill: all of said lines

and insert in lieu thereof:

(c) *On the effective date of the Florida Building Code, charter school facilities shall utilize facilities which comply with section 306.1.1 of the rules promulgated pursuant to the* Florida ~~After January 1, 2001, charter school facilities shall utilize facilities which comply with the~~

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

On motion by Rep. Attkisson, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Attkisson offered the following:

(Amendment Bar Code: 770887)

Amendment 9 (with title amendment)—On page 41, between lines 17 and 18,

insert:

Section 5. Paragraph (b) of subsection (22) of section 159.27, Florida Statutes, is amended to read:

159.27 Definitions.—The following words and terms, unless the context clearly indicates a different meaning, shall have the following meanings:

(22) "Educational facility" means:

(b) Property that comprises the buildings and equipment, structures, and special education use areas that are built, installed, or established to serve primarily the educational purposes of operating any nonprofit private preschool, kindergarten, elementary school, middle school, or high school that is established under chapter 617 or chapter 623, or that is owned or operated by an organization described in s. 501(c)(3) of the United States Internal Revenue Code*, or operating any preschool, kindergarten, elementary school, middle school, or high school that is owned or operated as part of the state's system of public education, including, but not limited to, a charter school or a developmental research school operated under chapter 228*. The requirements of this part for the financing of projects through local agencies shall also apply to such schools. Bonds issued under the provisions of this part for such schools shall not be deemed to constitute a debt, liability, or obligation of the state or any political subdivision thereof, or a pledge of the faith and credit of the state or of any such political subdivision, but shall be payable solely from the revenues provided therefor.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 3, line 26, after the semicolon,

insert: amending s. 159.27, F.S.; redefining the term "educational facility" for purposes of part II of ch. 159, F.S., the Florida Industrial Development Financing Act, to include charter schools and developmental research schools;

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

On motion by Rep. Gardiner, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Gardiner offered the following:

(Amendment Bar Code: 295497)

Amendment 10—On page 38, lines 7-14,
remove from the bill: all of said lines

and insert in lieu thereof: *Beginning July 1, 2001, the State Board of Education shall provide the option to each school that has been in operation for at least 2 years within a school district that is approved for charter school district status to vote within the first year of the approved charter school district status, or if the charter school district was approved prior to July 1, 2001, to vote no later than June 30, 2002, to convert to charter school status and upon the vote, as described in s. 228.056(3)(a), to apply for charter school status.*

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

Representative(s) Arza offered the following:

(Amendment Bar Code: 883977)

Amendment 11—On page 21, lines 25 & 26
remove from the bill: all of said lines

and insert in lieu thereof: *school fixed capital outlay shall be included in this financial plan as a separate source of potential income.*

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

On motion by Rep. Arza, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Arza offered the following:

(Amendment Bar Code: 802497)

Amendment 12—On page 25, line 25 after the period

insert: *In case of real property, school districts may have first right of refusal in determining whether to assume the asset.*

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

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

HB 457—A bill to be entitled An act relating to property and casualty insurers; amending s. 624.4072, F.S.; increasing a period of exemption from certain taxes and assessments for certain minority businesses; extending a future repeal; providing an effective date.

—was read the second time by title.

The Committee on Insurance offered the following:

(Amendment Bar Code: 241979)

Amendment 1—On page 2, line 8
remove from the bill: "July 1"

and insert in lieu thereof: *December 31*

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

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

HB 867—A bill to be entitled An act relating to Hillsborough County; providing that, notwithstanding any provision of general law, the Hillsborough County Tourist Development Council shall consist of 11 members; providing that an elected municipal official shall be appointed to the council from each municipality within the county; providing that seven members shall be persons involved in the tourist industry; providing that the additional members shall be appointed within 30 days of the effective date of this act; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 273735)

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

and insert in lieu thereof:

Section 1. *Hillsborough County Tourist Development Council; composition.—Notwithstanding any provision of general law, the Hillsborough County Tourist Development Council shall consist of 11 members. The Chair of the Hillsborough County Board of County Commissioners or any other member as designated by the chair shall serve on the Council. The governing board of Hillsborough County shall appoint an elected municipal official from each municipality within the county to the council. The governing board of the county shall also appoint seven members to the council who are persons involved in the tourist industry and who have demonstrated an interest in tourist development, of which not less than three nor more than four shall be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to a tourist*

development tax. The additional municipal and industry members shall be appointed within 30 days after the effective date of this act. The changes in composition of the membership of the Hillsborough County Tourist Development Council mandated by the act shall not cause the interruption of the current term of any person who is a member of the Hillsborough County Tourist Development Council on the effective date of this act.

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

And the title is amended as follows:

On page ,
remove from the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to Hillsborough County; providing that, notwithstanding any provision of general law, the Hillsborough County Tourist Development Council shall consist of 11 members; providing that the chair of the county governing board, or a designee, serves on the council; providing that an elected municipal official shall be appointed to the council from each municipality within the county; providing that seven members shall be persons involved in the tourist industry; providing that the additional members shall be appointed within 30 days of the effective date of this act; providing that terms of current members are not interrupted by change to council composition; providing an effective date.

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

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

Consideration of **CS/HB 1255** was temporarily postponed under Rule 11.10.

HB 1611—A bill to be entitled An act for the relief of Mary Beth Wiggers; providing an appropriation to compensate Mary Beth Wiggers for injuries she sustained due to the negligence of the Department of Corrections; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 159—A bill to be entitled An act relating to health maintenance organizations; amending s. 641.51, F.S.; providing a licensure requirement for a physician who renders an adverse determination regarding services provided by another state-licensed physician; eliminating authority of certain out-of-state physicians to render such determinations; providing an effective date.

—was read the second time by title.

The Committee on Insurance offered the following:

(Amendment Bar Code: 852583)

Amendment 1—On page 2, lines 6-7
remove from the bill: all of said lines

and insert in lieu thereof:

Section 2. This act shall take effect January 1, 2002.

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

Representative(s) Sobel offered the following:

(Amendment Bar Code: 531915)

Amendment 2 (with title amendment)—On page 1, line 24 of the bill

after the period, insert: *Such physician and the organization are liable for damages for harm to a subscriber or enrollee proximately caused by the adverse determination when such determination is made without the exercise of ordinary care.*

And the title is amended as follows:

On page 1, line 9,

after "determinations;" insert: providing for damages when an organization or physician fails to exercise ordinary care;

Rep. Sobel moved the adoption of the amendment, which failed of adoption. The vote was:

Session Vote Sequence: 206

Yeas—38

Ausley	Gelber	Kosmas	Siplin
Bendross-Mindingall	Gottlieb	Lee	Slosberg
Betancourt	Greenstein	Lerner	Smith
Bucher	Harper	Machek	Sobel
Bullard	Henriquez	McGriff	Weissman
Cusack	Heyman	Rich	Wiles
Detert	Holloway	Richardson	Wilson
Fields	Jennings	Ritter	Wishner
Frankel	Joyner	Romeo	
Gannon	Justice	Seiler	

Nays—59

The Chair	Bowen	Goodlette	Mealor
Alexander	Brummer	Haridopolos	Melvin
Allen	Byrd	Harrell	Miller
Andrews	Cantens	Harrington	Murman
Arza	Carassas	Hart	Needelman
Attkisson	Clarke	Kallinger	Negron
Baker	Davis	Kendrick	Paul
Ball	Diaz de la Portilla	Kilmer	Pickens
Barreiro	Diaz-Balart	Kottkamp	Rubio
Baxley	Dockery	Kravitz	Russell
Bean	Fasano	Kyle	Simmons
Bennett	Fiorentino	Mack	Spratt
Bense	Flanagan	Mahon	Stansel
Benson	Gardiner	Mayfield	Trovillion
Bilirakis	Gibson	Maygarden	

Representative(s) Frankel and Sobel offered the following:

(Amendment Bar Code: 783209)

Amendment 3 (with title amendment)—On page 2, line 3,

after the period, insert: *The treating provider may, within 10 working days of receiving such notification, overrule the adverse determination by written notification to the organization.*

And the title is amended as follows:

On page 1, line 9,

after "determinations;" insert: authorizing the treating provider to overrule an adverse determination;

Rep. Frankel moved the adoption of the amendment, which failed of adoption. The vote was:

Session Vote Sequence: 207

Yeas—41

Ausley	Gannon	Joyner	Richardson
Bendross-Mindingall	Gelber	Justice	Ritter
Betancourt	Gottlieb	Kosmas	Romeo
Brutus	Greenstein	Lee	Ryan
Bucher	Harper	Lerner	Seiler
Bullard	Henriquez	Machek	Siplin
Cusack	Heyman	McGriff	Slosberg
Fields	Holloway	Meadows	Smith
Frankel	Jennings	Rich	Sobel

Sorensen	Wiles	Wilson	Wishner
Weissman			

Nays—71

The Chair	Brummer	Green	Maygarden
Alexander	Byrd	Haridopolos	Mealor
Allen	Cantens	Harrell	Melvin
Andrews	Carassas	Harrington	Miller
Arza	Clarke	Johnson	Murman
Attkisson	Davis	Jordan	Needelman
Atwater	Detert	Kallinger	Negron
Baker	Diaz de la Portilla	Kendrick	Paul
Ball	Diaz-Balart	Kilmer	Pickens
Barreiro	Dockery	Kottkamp	Rubio
Baxley	Farkas	Kravitz	Russell
Bean	Fasano	Kyle	Simmons
Bennett	Fiorentino	Lacasa	Spratt
Bense	Flanagan	Littlefield	Stansel
Benson	Garcia	Lynn	Trovillion
Berfield	Gardiner	Mack	Wallace
Bilirakis	Gibson	Mahon	Waters
Bowen	Goodlette	Mayfield	

Representative(s) Murman and Berfield offered the following:

(Amendment Bar Code: 093461)

Amendment 4 (with title amendment)—On page 2, lines 6 and 7, remove from the bill: all of said lines,

and insert in lieu thereof:

Section 2. Paragraph (a) of subsection (6) of section 627.410, Florida Statutes, is amended, and paragraph (f) is added to subsection (7) of said section, to read:

627.410 Filing, approval of forms.—

(6)(a) An insurer shall not deliver or issue for delivery or renew in this state any health insurance policy form until it has filed with the department a copy of every applicable rating manual, rating schedule, change in rating manual, and change in rating schedule; if rating manuals and rating schedules are not applicable, the insurer must file with the department applicable premium rates and any change in applicable premium rates. *This paragraph does not apply to group health insurance policies insuring groups of 51 or more persons, except for Medicare supplement insurance, long-term care insurance, and any coverage under which the increase in claims costs over the lifetime of the contract due to advancing age or duration is prefunded in the premium.*

(7)

(f) Insurers with fewer than 1,000 nationwide policyholders or insured group members or subscribers covered under any form or pooled group of forms with health insurance coverage, as described in s. 627.6561(5)(a)2., excluding Medicare supplement insurance coverage under part VIII, at the time of a rate filing made pursuant to subparagraph (b)1., may file for an annual rate increase limited to medical trend as adopted by the department pursuant to s. 627.411(5). The filing is in lieu of the actuarial memorandum required for a rate filing prescribed by paragraph (6)(b). The filing must include forms adopted by the department and a certification by an officer of the company that the filing includes all similar forms.

Section 3. Paragraph (e) of subsection (1) of section 627.411, Florida Statutes, is amended to read:

627.411 Grounds for disapproval.—

(1) The department shall disapprove any form filed under s. 627.410, or withdraw any previous approval thereof, only if the form:

(e) Is for health insurance, and*:*

1. Provides benefits *that* ~~which~~ are unreasonable in relation to the premium charged*;*~~,~~

2. Contains provisions *that* ~~which~~ are unfair or inequitable or contrary to the public policy of this state or *that* ~~which~~ encourage misrepresentation*;*~~,~~ or

3. Contains provisions that ~~which~~ apply rating practices *that* ~~which result in premium escalations that are not viable for the policyholder market or~~ result in unfair discrimination *pursuant to s. 626.9541(1)(g)2.;* ~~in sales practices~~.

Section 4. Subsection (9) is added to section 627.6515, Florida Statutes, to read:

627.6515 Out-of-state groups.—

(9) For purposes of this section, any insurer that issues any group health insurance policy or group certificate for health insurance to a resident of this state and requires individual underwriting to determine coverage eligibility or premium rates to be charged shall combine the experience of all association-based group policies or association-based group certificates which are substantially similar with respect to type and level of benefits and marketing method issued in this state after the policy form has been in force for a period of 5 years to calculate uniform percentage rate increases. For purposes of this section, policy forms that have different cost-sharing arrangements or different riders are considered to be different policy forms. Nothing in this subsection shall be construed to require uniform rates for policies or certificates after their fifth duration, it being the intent and purpose of this law to require uniform percentage rate increases for such policies or certificates. Furthermore, nothing in this subsection shall be construed to eliminate changes in rates by age for attained age policies or certificates. The provisions of this subsection shall apply to policies or certificates issued after July 1, 2001. For purposes of this subsection, a group health policy or group certificate for health insurance means any hospital or medical policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract. The term does not include accident-only, specified disease, individual hospital indemnity, credit, dental-only, vision-only, Medicare supplement, long-term care, or disability income insurance; similar supplemental plans provided under a separate policy, certificate, or contract of insurance, which cannot duplicate coverage under an underlying health plan and are specifically designed to fill gaps in the underlying health plan, coinsurance, or deductibles; coverage issued as a supplement to liability insurance; workers' compensation or similar insurance; or automobile medical-payment insurance.

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

627.6699 Employee Health Care Access Act.—

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

(n) "Modified community rating" means a method used to develop carrier premiums which spreads financial risk across a large population; allows the use of separate rating factors for age, gender, family composition, tobacco usage, and geographic area as determined under paragraph (5)(j); and allows adjustments for~~: claims experience, health status, or duration of coverage as permitted under subparagraph (6)(b)5.; and~~ administrative and acquisition expenses as permitted under subparagraph (6)(b)5. *A carrier may separate the experience of small employer groups with less than 2 eligible employees from the experience of small employer groups with 2 through 50 eligible employees.*

(6) RESTRICTIONS RELATING TO PREMIUM RATES.—

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

1. Small employer carriers must use a modified community rating methodology in which the premium for each small employer must be determined solely on the basis of the eligible employee's and eligible

dependent's gender, age, family composition, tobacco use, or geographic area as determined under paragraph (5)(j) and in which the premium may be adjusted as permitted by subparagraphs *6.* ~~5.~~ and *7.* ~~6.~~

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

3. If the modified community rate is determined from two experience pools as authorized by paragraph (3)(n), the rate to be charged to small employer groups of less than 2 eligible employees may not exceed 150 percent of the rate determined for groups of 2 through 50 eligible employees; however, the carrier may charge excess losses of the less than 2 eligible employee experience pool to the experience pool of the 2 through 50 eligible employees so that all losses are allocated and the 150-percent rate limit on the less than 2 eligible employee experience pool is maintained.

4.~~3.~~ Small employer carriers may not modify the rate for a small employer for 12 months from the initial issue date or renewal date, unless the composition of the group changes or benefits are changed. However, a small employer carrier may modify the rate one time prior to 12 months after the initial issue date for a small employer who enrolls under a previously issued group policy that has a common anniversary date for all employers covered under the policy if:

a. The carrier discloses to the employer in a clear and conspicuous manner the date of the first renewal and the fact that the premium may increase on or after that date.

b. The insurer demonstrates to the department that efficiencies in administration are achieved and reflected in the rates charged to small employers covered under the policy.

5.~~4.~~ A carrier may issue a group health insurance policy to a small employer health alliance or other group association with rates that reflect a premium credit for expense savings attributable to administrative activities being performed by the alliance or group association if such expense savings are specifically documented in the insurer's rate filing and are approved by the department. Any such credit may not be based on different morbidity assumptions or on any other factor related to the health status or claims experience of any person covered under the policy. Nothing in this subparagraph exempts an alliance or group association from licensure for any activities that require licensure under the insurance code. A carrier issuing a group health insurance policy to a small employer health alliance or other group association shall allow any properly licensed and appointed agent of that carrier to market and sell the small employer health alliance or other group association policy. Such agent shall be paid the usual and customary commission paid to any agent selling the policy.

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

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

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

Section 6. Section 627.9408, Florida Statutes, is amended to read:

627.9408 Rules.—

(1) The department *may* ~~has authority to~~ adopt rules pursuant to ss. 120.536(1) and 120.54 to *administer* ~~implement the provisions of~~ this part.

(2) The department may adopt by rule the provisions of the Long-Term Care Insurance Model Regulation adopted by the National Association of Insurance Commissioners in the second quarter of the year 2000 which are not in conflict with the Florida Insurance Code.

Section 7. Paragraph (b) of subsection (3) of section 641.31, Florida Statutes, is amended, and paragraph (f) is added to said subsection, to read:

641.31 Health maintenance contracts.—

(3)

(b) Any change in the rate is subject to paragraph (d) and requires at least 30 days' advance written notice to the subscriber. In the case of a group member, there may be a contractual agreement with the health maintenance organization to have the employer provide the required notice to the individual members of the group. *This paragraph does not apply to a group contract covering 51 or more persons unless the rate is for any coverage under which the increase in claim costs over the lifetime of the contract due to advancing age or duration is prefunded in the premium.*

(f) A health maintenance organization with fewer than 1,000 covered subscribers under all individual or group contracts, at the time of a rate filing, may file for an annual rate increase limited to annual medical trend, as adopted by the department. The filing is in lieu of the actuarial memorandum otherwise required for the rate filing. The filing must include forms adopted by the department and a certification by an officer of the company that the filing includes all similar forms.

Section 8. Paragraphs (a) and (b) of subsection (1) of section 641.3155, Florida Statutes, are amended to read:

641.3155 Payment of claims.—

(1)(a) As used in this section, the term "clean claim" for a noninstitutional provider means a claim submitted on a HCFA 1500 form which has no defect or impropriety, including lack of required substantiating documentation for noncontracted providers and suppliers, or particular circumstances requiring special treatment which prevent timely payment from being made on the claim. A claim may not be considered not clean solely because a health maintenance organization refers the claim to a medical specialist within the health

maintenance organization for examination. If additional substantiating documentation, such as the medical record or encounter data, is required from a source outside the health maintenance organization, the claim is considered not clean. *This paragraph does not apply to claims which include potential coordination of benefits for third-party liability or subrogation, as evidenced by the information provided on the claim form related to coordination of benefits.* This definition of "clean claim" is repealed on the effective date of rules adopted by the department which define the term "clean claim."

(b) Absent a written definition that is agreed upon through contract, the term "clean claim" for an institutional claim is a properly and accurately completed paper or electronic billing instrument that consists of the UB-92 data set or its successor with entries stated as mandatory by the National Uniform Billing Committee. *This paragraph does not apply to claims which include potential coordination of benefits for third-party liability or subrogation, as evidenced by the information provided on the claim form related to coordination of benefits.*

Section 9. *Health flex plans.—*

(1) INTENT.—The Legislature finds that a significant portion of the residents of this state are not able to obtain affordable health insurance coverage. Therefore, it is the intent of the Legislature to expand the availability of health care options for lower income uninsured state residents by encouraging health insurers, health maintenance organizations, health care provider sponsored organizations, local governments, health care districts, or other public or private community-based organizations to develop alternative approaches to traditional health insurance which emphasize coverage for basic and preventive health care services. To the maximum extent possible, such options should be coordinated with existing governmental or community-based health services programs in a manner that is consistent with the objectives and requirements of such programs.

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

(a) "Agency" means the Agency for Health Care Administration.

(b) "Approved plan" means a health flex plan approved under subsection (3) which guarantees payment by the health plan entity for specified health care services provided to the enrollee.

(c) "Enrollee" means an individual who has been determined eligible for and is receiving health benefits under a health flex plan approved under this section.

(d) "Health care coverage" means payment for health care services covered as benefits under an approved plan or that otherwise provides, either directly or through arrangements with other persons, covered health care services on a prepaid per-capita basis or on a prepaid aggregate fixed-sum basis.

(e) "Health plan entity" means a health insurer, health maintenance organization, health care provider sponsored organization, local government, health care districts, or other public or private community-based organization that develops and implements an approved plan and is responsible for financing and paying all claims by enrollees of the plan.

(3) PILOT PROGRAM.—The agency and the Department of Insurance shall jointly approve or disapprove health flex plans which provide health care coverage for eligible participants residing in the three areas of the state having the highest number of uninsured residents as determined by the agency. A plan may limit or exclude benefits otherwise required by law for insurers offering coverage in this state, cap the total amount of claims paid in 1 year per enrollee, or limit the number of enrollees covered. The agency and the Department of Insurance shall not approve or shall withdraw approval of a plan which:

(a) Contains any ambiguous, inconsistent, or misleading provisions, or exceptions or conditions that deceptively affect or limit the benefits purported to be assumed in the general coverage provided by the plan;

(b) Provides benefits that are unreasonable in relation to the premium charged, contains provisions that are unfair or inequitable or contrary to the public policy of this state or that encourage misrepresentation, or result in unfair discrimination in sales practices; or

(c) Cannot demonstrate that the plan is financially sound and the applicant has the ability to underwrite or finance the benefits provided.

(4) LICENSE NOT REQUIRED.—A health flex plan approved under this section shall not be subject to the licensing requirements of the Florida Insurance Code or chapter 641, Florida Statutes, relating to health maintenance organizations, unless expressly made applicable. However, for the purposes of prohibiting unfair trade practices, health flex plans shall be considered insurance subject to the applicable provisions of part IX of chapter 626, Florida Statutes, except as otherwise provided in this section.

(5) ELIGIBILITY.—Eligibility to enroll in an approved health flex plan is limited to residents of this state who:

(a) Are 64 years of age or younger;

(b) Have a family income equal to or less than 200 percent of the federal poverty level;

(c) Are not covered by a private insurance policy and are not eligible for coverage through a public health insurance program such as Medicare or Medicaid, or other public health care program, including, but not limited to, Kidcare, and have not been covered at any time during the past 6 months; and

(d) Have applied for health care benefits through an approved health flex plan and agree to make any payments required for participation, including, but not limited to, periodic payments and payments due at the time health care services are provided.

(6) RECORDS.—Every health flex plan provider shall maintain reasonable records of its loss, expense, and claims experience and shall make such records reasonably available to enable the agency and the Department of Insurance to monitor and determine the financial viability of the plan, as necessary.

(7) NOTICE.—The denial of coverage by the health plan entity shall be accompanied by the specific reasons for denial, nonrenewal, or cancellation. Notice of nonrenewal or cancellation shall be provided at least 45 days in advance of such nonrenewal or cancellation except that 10 days' written notice shall be given for cancellation due to nonpayment of premiums. If the health plan entity fails to give the required notice, the plan shall remain in effect until notice is appropriately given.

(8) NONENTITLEMENT.—Coverage under an approved health flex plan is not an entitlement and no cause of action shall arise against the state, local governmental entity, or other political subdivision of this state or the agency for failure to make coverage available to eligible persons under this section.

(9) CIVIL ACTIONS.—In addition to an administrative action initiated under subsection (4), the agency may seek any remedy provided by law, including, but not limited to, the remedies provided in s. 812.035, Florida Statutes, if the agency finds that a health plan entity has engaged in any act resulting in injury to an enrollee covered by a plan approved under this section.

Section 10. *The Legislature finds that the affordability and availability of health insurance is one of the most important and complex issues in this state and that coverage issued to a state resident under group health insurance policies issued outside the state is an important factor in meeting the needs of the citizens of this state. The Legislature also finds that it is important to ensure that those policies are adequately regulated in order to maintain the quality of the coverage offered to citizens of this state. Therefore, the Workgroup on Out of State Group Policies is hereby created to study the regulatory environment in which these policies are now offered and recommend any statutory changes that may be necessary to maintain the quality of the insurance offered in this state. There shall be four members from the House of Representatives appointed by the Speaker of the House of Representatives and four members from the Senate appointed by the President of the Senate. The group shall begin its meetings by July 1, 2001, and complete its meetings*

by November 15, 2001. Recommendations for suggested legislation shall be delivered to the Speaker of the House of Representatives and the President of the Senate by December 15, 2001. At its first meeting, the group shall elect a chair from among its members.

Section 11. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 9, after the semicolon,

insert: amending s. 627.410, F.S.; exempting group health insurance policies insuring groups of a certain size from rate filing requirements; providing alternative rate filing requirements for insurers with less than a specified number of nationwide policyholders or members; amending s. 627.411, F.S.; revising the grounds for the disapproval of insurance policy forms; amending s. 627.6515, F.S.; providing additional experience requirements and limitations for out-of-state groups; providing construction; amending s. 627.6699, F.S.; revising a definition; allowing carriers to separate the experience of small employer groups with fewer than two employees; revising the rating factors that may be used by small employer carriers; amending s. 627.9408, F.S.; authorizing the department to adopt by rule certain provisions of the Long-Term Care Insurance Model Regulation, as adopted by the National Association of Insurance Commissioners; amending s. 641.31, F.S.; exempting contracts of group health maintenance organizations covering a specified number of persons from the requirements of filing with the department; providing alternative rate filing requirements for organizations with less than a specified number of subscribers; amending s. 641.3155, F.S.; specifying nonapplication of certain provisions to certain claims; providing for certain health flex plans; providing legislative intent; providing definitions; providing for a pilot program for health flex plans for certain uninsured persons; providing criteria; exempting approved health flex plans from certain licensing requirements; providing criteria for eligibility to enroll in a health flex plan; requiring health flex plan providers to maintain certain records; providing requirements for denial, nonrenewal, or cancellation of coverage; specifying that coverage under an approved health flex plan is not an entitlement; providing for civil actions against health plan entities by the Agency for Health Care Administration under certain circumstances; providing legislative findings; creating the Workgroup on Out of State Group Policies; providing for membership; providing purposes; requiring recommendations for proposed legislation; providing an effective date.

Rep. Berfield moved the adoption of the amendment.

On motion by Rep. Harrell, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Harrell offered the following:

(Amendment Bar Code: 942283)

Amendment 1 to Amendment 4 (with title amendment)—On page 1, between lines 17 and 18,

insert:

Section 2. Paragraphs (b) and (f) of subsection (4), and paragraph (b) of subsection (5) and paragraph (a) of subsection (7) of section 627.736, Florida Statutes, are amended to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.—

(4) BENEFITS; WHEN DUE.—Benefits due from an insurer under ss. 627.730-627.7405 shall be primary, except that benefits received under any workers' compensation law shall be credited against the benefits provided by subsection (1) and shall be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under ss. 627.730-627.7405. When the Agency for Health Care Administration provides, pays, or becomes liable for medical assistance under the Medicaid program related to injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle, benefits under ss. 627.730-627.7405 shall be subject to the provisions of the Medicaid program.

(b) Personal injury protection insurance benefits paid pursuant to this section shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same. If such written notice is not furnished to the insurer as to the entire claim, any partial amount supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. However, any payment shall not be deemed overdue when the insurer has reasonable proof to establish that the insurer is not responsible for the payment that written notice has been furnished to the insurer. For the purpose of calculating the extent to which any benefits are overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope or, if not so posted, on the date of delivery. *This paragraph does not preclude or limit the ability of the insurer to assert that the claim was unrelated, was not medically necessary, or was unreasonable or that the amount of the charge was in excess of that permitted under, or in violation of, subsection (5). Such assertion by the insurer may be made at any time, including after payment of the claim or after the 30-day time period for payment set forth in this paragraph.*

~~(f) Medical payments insurance, if available in a policy of motor vehicle insurance, shall pay the portion of any claim for personal injury protection medical benefits which is otherwise covered but is not payable due to the coinsurance provision of paragraph (1)(a), regardless of whether the full amount of personal injury protection coverage has been exhausted. The benefits shall not be payable for the amount of any deductible which has been selected.~~

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

(b) With respect to any treatment or service, other than medical services billed by a hospital *or other provider* for *emergency* services *as defined in s. 395.002 or inpatient services* rendered at a hospital-owned facility, the statement of charges must be furnished to the insurer by the provider and may not include, and the insurer is not required to pay, charges for treatment or services rendered more than *35* ~~30~~ days before the postmark date of the statement, except for past due amounts previously billed on a timely basis under this paragraph, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services rendered up to, but not more than, *75* ~~60~~ days before the postmark date of the statement. The injured party is not liable for, and the provider shall not bill the injured party for, charges that are unpaid because of the provider's failure to comply with this paragraph. Any agreement requiring the injured person or insured to pay for such charges is unenforceable. *If, however, the insured fails to furnish the provider with the correct name and address of the insured's personal injury protection insurer, the provider has 35 days from the date the provider obtains the correct information to furnish the insurer with a statement of the charges. The insurer is not required to pay for such charges, unless the provider includes with the statement documentary evidence that was provided by the insured during the 35-day period demonstrating that the provider reasonably relied on erroneous information from the insured and either:*

1. A denial letter from the incorrect insurer; or

2. Proof of mailing, which may include an affidavit under penalty of perjury, reflecting timely mailing to the incorrect address or insurer. For emergency services and care as defined in s. 395.002 rendered in a hospital emergency department or for transport and treatment rendered by an ambulance provider licensed pursuant to part III of chapter 401, the provider is not required to furnish the statement of charges within the time periods established by this paragraph; and the insurer shall not be considered to have been furnished with notice of the amount of covered loss for purposes of paragraph (4)(b) until it receives a

statement complying with paragraph *(e)* ~~(5)(d)~~, or copy thereof, which specifically identifies the place of service to be a hospital emergency department or an ambulance in accordance with billing standards recognized by the Health Care Finance Administration. Each notice of insured's rights under s. 627.7401 must include the following statement in type no smaller than 12 points:

BILLING REQUIREMENTS.—Florida Statutes provide that with respect to any treatment or services, other than certain hospital and emergency services, the statement of charges furnished to the insurer by the provider may not include, and the insurer and the injured party are not required to pay, charges for treatment or services rendered more than *35* ~~30~~ days before the postmark date of the statement, except for past due amounts previously billed on a timely basis, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services rendered up to, but not more than, *75* ~~60~~ days before the postmark date of the statement.

(7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON; REPORTS.—

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon the request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within the municipality where the insured is receiving treatment, or in a location reasonably accessible to the insured, which, for purposes of this paragraph, means any location within the municipality in which the insured resides, or any location within 10 miles by road of the insured's residence, provided such location is within the county in which the insured resides. If the examination is to be conducted in a location reasonably accessible to the insured, and if there is no qualified physician to conduct the examination in a location reasonably accessible to the insured, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits. An insurer may not withdraw payment of a treating physician without the consent of the injured person covered by the personal injury protection, unless the insurer first obtains a *valid* report by a physician licensed under the same chapter as the treating physician whose treatment authorization is sought to be withdrawn, stating that treatment was not reasonable, related, or necessary. *A valid report is one prepared and signed by the physician examining the injured person or reviewing the treatment records of the injured person and is factually supported by the examination or treatment records, if reviewed, and which has not been modified by anyone other than the physician. The physician preparing the report must be in active practice, unless the physician is physically disabled. Active practice means that during the 3 years immediately preceding the date of the physical examination or review of the treatment record, the physician devoted professional time to the active clinical practice of evaluation, diagnosis, or treatment of medical conditions; or the instruction of students in an accredited health professional school or accredited residency, or at a clinical research program or a clinical research program affiliated with an accredited health professional school or teaching hospital, or a clinical research program affiliated with an accredited health professional school or accredited residency, or clinical research program.*

And the title is amended as follows:

On page 15, between lines 11 and 12,

insert: amending s. 627.736, F.S.; relating to required personal injury protection benefits; revising provisions relating to personal injury protection benefits;

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

Representative(s) Murman and Berfield offered the following:

(Amendment Bar Code: 333661)

Amendment 2 to Amendment 4—On page 4, lines 22-24, remove from the amendment: all of said lines

and insert in lieu thereof:
allows adjustments for: claims experience, health status, or duration of coverage as permitted under subparagraph (6)(b)5.; and administrative and acquisition expenses as permitted under

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

The question recurred on the adoption of **Amendment 4**, as amended, which was adopted.

Representative(s) Rubio offered the following:

(Amendment Bar Code: 845885)

Amendment 5 (with title amendment)—On page 2, line 6, remove from the bill: all of said line

and insert in lieu thereof: *This provision does not create authority for the Board of Medicine or the Board of Osteopathic Medicine to regulate the organization; however, the Board of Medicine and the Board of Osteopathic Medicine continue to have jurisdiction over licensees of their respective boards.*

Section 2. This act shall take effect January 1, 2002.

And the title is amended as follows:

On page 1, line 7,

after the semicolon insert: clarifying the authority of the Board of Medicine and the Board of Osteopathic Medicine;

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

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

HB 1513—A bill to be entitled An act relating to the State Group Insurance Program; amending ss. 110.123 and 287.022, F.S.; prohibiting the Department of Management Services or the Division of State Group Insurance from prohibiting or limiting competition for certain insurance products or plans on an agent compensation arrangement basis; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

REPRESENTATIVE BALL IN THE CHAIR

HB 465—A bill to be entitled An act relating to determinations of residency for tuition purposes; amending s. 240.1201, F.S.; revising provisions relating to determinations of residency for tuition purposes to classify members of the active Florida National Guard as residents for tuition purposes; providing an effective date.

—was read the second time by title.

Representative(s) Hart offered the following:

(Amendment Bar Code: 933951)

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

insert:

Section 2. Section 240.2099, Florida Statutes, is amended to read:

240.2099 Computer-assisted student advising system; plans.—The Board of Regents and State Board of Community Colleges shall develop plans for implementing a single, statewide computer-assisted student

advising system, which must be an integral part of the process of advising, registering, and certifying students for graduation. Plans shall include timelines for the implementation of the system and shall be submitted to the Legislature by October 1, 1996. It is intended that an advising system be the primary advising and tracking tool for students enrolled in community colleges and universities and be accessible to students enrolled in each of the state universities, community colleges, and public secondary schools. The State University System and the community college system shall establish a committee to oversee the development and maintenance of the advising system. The system shall consist of a degree audit and an articulation component that includes the ~~following~~ characteristics *provided in subsections (1), (2), and (3)*:

(1) The system shall constitute an integral part of the process of advising students and assisting them in course selection. The system shall be accessible to students in the following ways:

(a) A student must be able to access the system, at any time, to identify course options that will meet the requirements of a selected path toward a degree.

(b) A status report from the system shall be generated and sent with each grade report to each student with a declared major.

(2) The system shall be an integral part of the registration process. As part of the process, the system shall:

(a) Provide reports that document each student's status toward completion of a degree.

(b) Verify that a student has completed requirements for graduation.

(3) The system must provide management information to decisionmakers, including information relating student enrollment patterns and course demands to plans for corresponding course offerings and information useful in planning the student registration process.

(4) In implementing the single, statewide, computer-assisted student advising system required under section 240.2099, Florida Statutes, the Board of Regents and the State Board of Community Colleges may:

(a) Perform all things necessary to secure letters of patent, copyrights, and trademarks on any work products and enforce their rights with respect thereto;

(b) Enter into binding agreements with organizations, corporations, or government entities to license, lease, assign, or otherwise give written consent to any person, firm, corporation, or agency for the use of the single, statewide, computer-assisted student advising system and collect royalties or any other consideration that the boards find proper; and

(c) Sell or license any such work products and execute all instruments necessary to consummate the sale or license.

(d) Final actions taken by the Board of Regents and the State Board of Community Colleges or their successor, related to the agreement, are subject to the notice review and objection procedure established in s. 216.177, Florida Statutes.

All or a portion of the proceeds derived from activities authorized under this section may be expended for the costs incurred in developing and maintaining the single, statewide, computer-assisted student advising system.

(Renumber subsequent sections)

And the title is amended as follows:

On page 1, line 8, after the semicolon

insert: amending s. 240.2099, F.S.; providing additional authority of the Board of Regents and the State Board of Community Colleges with respect to the implementation of the statewide computer-assisted student advising system; providing for expenditure of specified proceeds;

Rep. Hart moved the adoption of the amendment.

Representative(s) Hart offered the following:

(Amendment Bar Code: 563389)

Substitute Amendment 1 (with title amendment)—On page 1, between lines 21 and 22,

insert:

Section 1. Section 240.2099, Florida Statutes, is amended to read:

240.2099 Computer-assisted student advising system; plans.—The Board of Regents and State Board of Community Colleges shall develop plans for implementing a single, statewide computer-assisted student advising system, which must be an integral part of the process of advising, registering, and certifying students for graduation. Plans shall include timelines for the implementation of the system and shall be submitted to the Legislature by October 1, 1996. It is intended that an advising system be the primary advising and tracking tool for students enrolled in community colleges and universities and be accessible to students enrolled in each of the state universities, community colleges, and public secondary schools. The State University System and the community college system shall establish a committee to oversee the development and maintenance of the advising system. The system shall consist of a degree audit and an articulation component that includes the ~~following~~ characteristics *provided in subsections (1), (2), and (3)*:

(1) The system shall constitute an integral part of the process of advising students and assisting them in course selection. The system shall be accessible to students in the following ways:

(a) A student must be able to access the system, at any time, to identify course options that will meet the requirements of a selected path toward a degree.

(b) A status report from the system shall be generated and sent with each grade report to each student with a declared major.

(2) The system shall be an integral part of the registration process. As part of the process, the system shall:

(a) Provide reports that document each student's status toward completion of a degree.

(b) Verify that a student has completed requirements for graduation.

(3) The system must provide management information to decisionmakers, including information relating student enrollment patterns and course demands to plans for corresponding course offerings and information useful in planning the student registration process.

(4) In implementing the single, statewide, computer-assisted student advising system required under section 240.2099, Florida Statutes, the Board of Regents and the State Board of Community Colleges may:

(a) Perform all things necessary to secure letters of patent, copyrights, and trademarks on any work products and enforce their rights with respect thereto;

(b) Enter into binding agreements with organizations, corporations, or government entities to license, lease, assign, or otherwise give written consent to any person, firm, corporation, or agency for the use of the single, statewide, computer-assisted student advising system and collect royalties or any other consideration that the boards find proper; and

(c) Sell or license any such work products and execute all instruments necessary to consummate the sale or license. Subject to the terms and conditions of any applicable license agreement or similar arrangement, the State shall retain ownership of all intellectual property and all interests therein, and shall have full right to use of such intellectual property. All of the proceeds derived from activities authorized under this section shall be expended for the costs incurred in developing, maintaining, and improving the single, statewide, computer-assisted student advising system.

(d) Final actions taken by the Board of Regents and the State Board of Community Colleges or their successor, related to the agreement, are subject to the notice review and objection procedure established in s. 216.177, Florida Statutes.

(Renumber subsequent sections)

And the title is amended as follows:

On page 1, line 8, after the semicolon

insert: amending s. 240.2099, F.S.; providing additional authority of the Board of Regents and the State Board of Community Colleges with respect to the implementation of the statewide computer-assisted student advising system; providing for expenditure of specified proceeds;

Rep. Hart moved the adoption of the substitute amendment, which was adopted.

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

CS/HB 293—A bill to be entitled An act relating to the Certified Capital Company Act; amending s. 288.99, F.S.; revising definitions; defining the terms "Program One" and "Program Two"; revising procedures and dates for certification and decertification under Program One and Program Two; revising the process for earning premium tax credits; providing a limitation on tax credits under Program Two; authorizing the Department of Banking and Finance to levy a fine; providing for distributions under both programs; providing an effective date.

—was read the second time by title.

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 920355)

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

and insert in lieu thereof:

Section 1. Subsections (3) and (4), paragraph (a) of subsection (5), paragraph (a) of subsection (6), paragraphs (a), (c), (d), (e), (f), (g), and (h) of subsection (7), paragraph (a) of subsection (8), paragraphs (a) and (b) of subsection (9), and paragraph (f) of subsection (10) of section 288.99, Florida Statutes, are amended and a new paragraph (i) of subsection (7) is added to read:

288.99 Certified Capital Company Act.—

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

(a) "Affiliate of an insurance company" means:

1. Any person directly or indirectly beneficially owning, whether through rights, options, convertible interests, or otherwise, controlling, or holding power to vote 10 percent or more of the outstanding voting securities or other ownership interests of the insurance company;

2. Any person 10 percent or more of whose outstanding voting securities or other ownership interest is directly or indirectly beneficially owned, whether through rights, options, convertible interests, or otherwise, controlled, or held with power to vote by the insurance company;

3. Any person directly or indirectly controlling, controlled by, or under common control with the insurance company;

4. A partnership in which the insurance company is a general partner; or

5. Any person who is a principal, director, employee, or agent of the insurance company or an immediate family member of the principal, director, employee, or agent.

(b) "Certified capital" means an investment of cash by a certified investor in a certified capital company which fully funds the purchase price of either or both its equity interest in the certified capital company or a qualified debt instrument issued by the certified capital company.

(c) "Certified capital company" means a corporation, partnership, or limited liability company which:

1. Is certified by the department in accordance with this act.

2. Receives investments of certified capital *from two or more unaffiliated certified investors*.

3. Makes qualified investments as its primary activity.

(d) "Certified investor" means any insurance company subject to premium tax liability pursuant to s. 624.509 that contributes certified capital.

(e) "Department" means the Department of Banking and Finance.

(f) "Director" means the director of the Office of Tourism, Trade, and Economic Development.

(g) "Early stage technology business" means a qualified business that is *either:*

1. Involved, at the time of the certified capital company's initial investment in such business, in activities related to developing initial product or service offerings, such as prototype development or the establishment of initial production or service processes*;* ~~. The term includes a qualified business that is~~

2. Less than 2 years old and has, together with its affiliates, less than $3 million in annual revenues for the fiscal year immediately preceding the initial investment by the certified capital company on a consolidated basis, as determined in accordance with generally accepted accounting principles*;* ~~. The term also includes~~

3. The Florida Black Business Investment Board*;* ~~,~~

4. Any entity *that is majority-owned* ~~majority owned~~ by the Florida Black Business Investment Board*;* ~~,~~ or

5. Any entity in which the Florida Black Business Investment Board holds a majority voting interest on the board of directors.

(h) "Office" means the Office of Tourism, Trade, and Economic Development.

(i) "Premium tax liability" means any liability incurred by an insurance company under the provisions of s. 624.509.

(j) "Principal" means an executive officer of a corporation, partner of a partnership, manager of a limited liability company, or any other person with equivalent executive functions.

(k) "Qualified business" means a business that meets the following conditions *as evidenced by documentation required by department rule*:

1. The business is headquartered in this state and its principal business operations are located in this state. *For the purpose of this act, the terms "headquartered" and "principal business operations" shall mean that at least 75 percent of the employees are located in the state.*

2. At the time a certified capital company makes an initial investment in a business, the business is a small business concern as defined in 13 C.F.R. s. 121.201, "Size Standards Used to Define Small Business Concerns" of the United States Small Business Administration which is involved in manufacturing, processing or assembling products, conducting research and development, or providing services.

3. At the time a certified capital company makes an initial investment in a business, the business certifies in an affidavit that:

a. The business is unable to obtain conventional financing, which means that the business has failed in an attempt to obtain funding for a loan from a bank or other commercial lender or that the business

cannot reasonably be expected to qualify for such financing under ~~,~~ the standards of commercial lending;

b. The business plan for the business projects that the business is reasonably expected to achieve in excess of $25 million in sales revenue within 5 years after the initial investment, or the business is located in a designated Front Porch community, enterprise zone, urban high crime area, rural job tax credit county, or nationally recognized historic district;

c. The business will maintain its headquarters in this state for the next 10 years and any new manufacturing facility financed by a qualified investment will remain in this state for the next 10 years, or the business is located in a designated Front Porch community, enterprise zone, urban high crime area, rural job tax credit county, or nationally recognized historic district; and

d. The business has fewer than 200 employees and at least 75 percent of the employees are employed in this state. For purposes of this subsection, the term ~~"qualified business"~~ also includes the Florida Black Business Investment Board, any entity majority owned by the Florida Black Business Investment Board, or any entity in which the Florida Black Business Investment Board holds a majority voting interest on the board of directors.

4. The term does not include:

a. Any business predominantly engaged in retail sales, real estate development, insurance, banking, lending, or oil and gas exploration.

b. Any business predominantly engaged in professional services provided by accountants, lawyers, or physicians.

c. Any company that has no historical revenues and either has no specific business plan or purpose or has indicated that its business plan is solely to engage in a merger or acquisition with any unidentified company or other entity.

d. Any company that has a strategic plan to grow through the acquisition of firms with substantially similar business which would result in the planned net loss of Florida-based jobs over a 12-month period after the acquisition as determined by the department.

~~A business predominantly engaged in retail sales, real estate development, insurance, banking, lending, oil and gas exploration, or engaged in professional services provided by accountants, lawyers, or physicians does not constitute a qualified business.~~

(l) "Qualified debt instrument" means a debt instrument, or a hybrid of a debt instrument, issued by a certified capital company, at par value or a premium, with an original maturity date of at least 5 years after the date of issuance, a repayment schedule which is no faster than a level principal amortization over a 5-year period, and interest, distribution, or payment features which are not related to the profitability of the certified capital company or the performance of the certified capital company's investment portfolio.

(m) "Qualified distribution" means any distribution or payment *by* ~~to equity holders of~~ a certified capital company for:

1. *Reasonable* costs and expenses*, including professional fees,* of forming *and*~~,~~ syndicating *the certified capital company*, *if no such costs are paid to a certified investor and the total cash or cash equivalents available to the certified capital company at the time of receipt of certified capital from certified investors, after deducting the costs and expenses of forming and syndicating the certified capital company, including any payments made over time for obligations incurred at the time of receipt of certified capital excluding other future qualified distributions and payments made under s. 288.99(9)(a), are an amount equal to or greater than 50 percent of the total certified capital allocated to the certified capital company pursuant to s. 288.99(7);*

2. Reasonable costs of managing~~,~~ and operating the certified capital company, *not exceeding 5 percent of the certified capital in any 1 year,* including an annual management fee in an amount that does not exceed 2.5 percent of the certified capital of the certified capital company*;* ~~, plus~~

3. Reasonable and necessary fees in accordance with industry custom for professional services, including, but not limited to, legal and accounting services, related to the operation of the certified capital company*; or*~~.~~

4.~~2.~~ Any projected increase in federal or state taxes, including penalties and interest related to state and federal income taxes, of the equity owners of a certified capital company resulting from the earnings or other tax liability of the certified capital company to the extent that the increase is related to the ownership, management, or operation of a certified capital company.

(n)*1.* "Qualified investment" means the investment of cash by a certified capital company in a qualified business for the purchase of any debt, equity, or hybrid security ~~of any nature and description whatsoever~~, including a debt instrument or security *that* ~~which~~ has the characteristics of debt but which provides for conversion into equity or equity participation instruments such as options or warrants.

2. The term does not include:

a. Any investment made after the effective date of this act the contractual terms of which require the repayment of any portion of the principal in instances, other than default as determined by department rule, within 12 months following the initial investment by the certified capital company unless such investment has a repayment schedule no faster than a level principal amortization of at least 2 years;

b. Any "follow-on" or "add-on" investment except for the amount by which the new investment is in addition to the amount of the certified capital company's initial investment returned to it other than in the form of interest, dividends, or other types of profit participation or distributions; or

c. Any investment in a qualified business or affiliate of a qualified business that exceeds 15 percent of certified capital.

(o) "Program One" means the $150 million in premium tax credits issued under this act in 1999, the allocation of such credits under this act, and the regulation of certified capital companies and investments made by them hereunder.

(p) "Program Two" means the $250 million in premium tax credits to be issued under this act on April 1, 2002, the allocation of such credits under this act, and the regulation of certified capital companies and investments made by them hereunder.

(4) CERTIFICATION; GROUNDS FOR DENIAL OR DECERTIFICATION.—

(a) To operate as a certified capital company, a corporation, partnership, or limited liability company must be certified by the department pursuant to this act.

(b) An applicant for certification as a certified capital company must file a verified application with the department on or before December 1, 1998, *or November 1, 2001, in the case of applicants for Program Two,* in a form which the department may prescribe by rule. The applicant shall submit a nonrefundable application fee of $7,500 to the department. The applicant shall provide:

1. The name of the applicant and the address of its principal office and each office in this state.

2. The applicant's form and place of organization and the relevant organizational documents, bylaws, and amendments or restatements of such documents, bylaws, or amendments.

3. Evidence from the Department of State that the applicant is registered with the Department of State as required by law, maintains an active status with the Department of State, and has not been dissolved or had its registration revoked, canceled, or withdrawn.

4. The applicant's proposed method of doing business.

5. The applicant's financial condition and history, including an audit report on the financial statements prepared in accordance with

generally accepted accounting principles showing net *worth* ~~capital~~ of not less than $500,000 within 90 days *prior to* ~~after~~ the date the application is submitted to the department. If the date of the application is more than 90 days after preparation of the applicant's fiscal year-end financial statements, the applicant may file financial statements reviewed by an independent certified public accountant for the period subsequent to the audit report, together with the audited financial statement for the most recent fiscal year. If the applicant has been in business less than 12 months, and has not prepared an audited financial statement, the applicant may file a financial statement reviewed by an independent certified public accountant.

6. Copies of any offering materials used or proposed to be used by the applicant in soliciting investments of certified capital from certified investors.

(c) On December 31, 1998, *or December 31, 2001, in the case of applicants for Program Two,* the department shall grant or deny certification as a certified capital company. If the department denies certification within the time period specified, the department shall inform the applicant of the grounds for the denial. If the department has not granted or denied certification within the time specified, the application shall be deemed approved. The department shall approve the application if the department finds that:

1. The applicant satisfies the requirements of paragraph (b).

2. No evidence exists that the applicant has committed any act specified in paragraph (d).

3. At least two of the principals have a minimum of 5 years of experience making venture capital investments out of private equity funds, with not less than $20 million being provided by third-party investors for investment in the early stage of operating businesses. At least one full-time manager or principal of the certified capital company who has such experience must be primarily located in an office of the certified capital company which is based in this state.

4. The applicant's proposed method of doing business and raising certified capital as described in its offering materials and other materials submitted to the department conforms with the requirements of this act.

(d) The department may deny certification or decertify a certified capital company if the grounds for decertification are not removed or corrected within 90 days after the notice of such grounds is received by the certified capital company. The department may deny certification or decertify a certified capital company if the certified capital company fails to maintain a net worth of at least $500,000, or if the department determines that the applicant, or any principal or director of the certified capital company, has:

1. Violated any provision of this section;

2. Made a material misrepresentation or false statement or concealed any essential or material fact from any person during the application process or with respect to information and reports required of certified capital companies under this section;

3. Been convicted of, or entered a plea of guilty or nolo contendere to, a crime against the laws of this state or any other state or of the United States or any other country or government, including a fraudulent act in connection with the operation of a certified capital company, or in connection with the performance of fiduciary duties in another capacity;

4. Been adjudicated liable in a civil action on grounds of fraud, embezzlement, misrepresentation, or deceit; or

5.a. Been the subject of any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, or administrative order by any court of competent jurisdiction, administrative law judge, or any state or federal agency, national securities, commodities, or option exchange, or national securities, commodities, or option association, involving a material violation of any federal or state securities or commodities law or any rule or regulation adopted under such law, or any rule or regulation of any national securities, commodities, or options exchange, or national securities, commodities, or options association; or

b. Been the subject of any injunction or adverse administrative order by a state or federal agency regulating banking, insurance, finance or small loan companies, real estate, mortgage brokers, or other related or similar industries.

~~(e) The certified capital company shall file a copy of its certification with the office by January 31, 1999.~~

(e)~~(f)~~ Any offering material involving the sale of securities of the certified capital company shall include the following statement: "By authorizing the formation of a certified capital company, the State of Florida does not endorse the quality of management or the potential for earnings of such company and is not liable for damages or losses to a certified investor in the company. Use of the word 'certified' in an offering does not constitute a recommendation or endorsement of the investment by the State of Florida. Investments in a certified capital company prior to the time such company is certified are not eligible for premium tax credits. If applicable provisions of law are violated, the state may require forfeiture of unused premium tax credits and repayment of used premium tax credits by the certified investor."

(f)~~(g)~~ No insurance company or any affiliate of an insurance company shall, directly or indirectly, *own (whether through rights, options, convertible interests, or otherwise) 10 percent or more of the equity interests of or* manage or control the direction of investments of a certified capital company *or have, through ownership or any agreement or understanding, the right to participate in 10 percent or more of the profits of a certified capital company*. This prohibition does not preclude a certified investor, insurance company, or any other party from exercising its legal rights and remedies, which may include interim management of a certified capital company, if a certified capital company is in default of its obligations under law or its contractual obligations to such certified investor, insurance company, or other party.

(g)~~(h)~~ On or before December 31 of each year, each certified capital company shall pay to the department an annual, nonrefundable renewal certification fee of $5,000. *If a certified capital company fails to pay its renewal fee by the specified deadline, it must pay a late fee of $5,000 in addition to the renewal fee on or by January 31 of each year in order to continue its certification in the program. On or before April 30 of each year, each certified capital company shall file audited financial statements with the department.* No renewal fees shall be required within 6 months after the date of initial certification.

(h)~~(i)~~ The department shall administer and provide for the enforcement of certification requirements for certified capital companies as provided in this act. The department may adopt any rules necessary to carry out its duties, obligations, and powers related to certification, renewal of certification, or decertification of certified capital companies and may perform any other acts necessary for the proper administration and enforcement of such duties, obligations, and powers.

(i)~~(j)~~ Decertification of a certified capital company under this subsection does not affect the ability of certified investors in such certified capital company from claiming future premium tax credits earned as a result of an investment in the certified capital company during the period in which it was duly certified.

(5) INVESTMENTS BY CERTIFIED CAPITAL COMPANIES.—

(a) To remain certified, a certified capital company must make qualified investments according to the following schedule:

1. At least 20 percent of its certified capital must be invested in qualified investments by December 31, 2000*, or in the case of certified capital raised under Program Two, by December 31, 2003*.

2. At least 30 percent of its certified capital must be invested in qualified investments by December 31, 2001*, or in the case of certified capital raised under Program Two, by December 31, 2004*.

3. At least 40 percent of its certified capital must be invested in qualified investments by December 31, 2002*, or in the case of certified capital raised under Program Two, by December 31, 2005*.

4. At least 50 percent of its certified capital must be invested in qualified investments by December 31, 2003*, or in the case of certified capital raised under Program Two, by December 31, 2006*. At least 50 percent of such qualified investments must be invested in early stage technology businesses.

(6) PREMIUM TAX CREDIT; AMOUNT; LIMITATIONS.—

(a) Any certified investor who makes an investment of certified capital shall earn a vested credit against premium tax liability equal to 100 percent of the certified capital invested by the certified investor. Certified investors shall be entitled to use no more than 10 percentage points of the vested premium tax credit *earned under a particular program*, including any carryforward credits *from such program* under this act, per year beginning with premium tax filings for calendar year 2000 *for credits earned under Program One and calendar year 2003 for credits earned under Program Two*. Any premium tax credits not used by certified investors in any single year may be carried forward and applied against the premium tax liabilities of such investors for subsequent calendar years. ~~The carryforward credit may be applied against subsequent premium tax filings through calendar year 2017.~~

(7) ANNUAL TAX CREDIT; MAXIMUM AMOUNT; ALLOCATION PROCESS.—

(a) The total amount of tax credits which may be allocated by the office shall not exceed $150 million *with respect to Program One and $250 million with respect to Program Two*. The total amount of tax credits which may be used by certified investors under this act shall not exceed $15 million annually *with respect to credits earned under Program One and $25 million annually with respect to credits earned under Program Two*.

(c) Each certified capital company must apply to the office for an allocation of premium tax credits for potential certified investors by March 15, 1999, *or by March 15, 2002, in the case of credits allocable under Program Two,* on a form developed by the office with the cooperation of the Department of Revenue. The form shall be accompanied by an affidavit from each potential certified investor confirming that the potential certified investor has agreed to make an investment of certified capital in a certified capital company up to a specified amount, subject only to the receipt of a premium tax credit allocation pursuant to this subsection. No allocation shall be made to the potential investors of a certified capital company *under Program Two* unless such certified capital company has filed premium tax allocation claims ~~that would result in an allocation to the potential investors in such certified capital company~~ of not less than $15 million in the aggregate.

(d) On or before April 1, 1999, *or April 1, 2002, in the case of Program Two,* the office shall inform each certified capital company of its share of total premium tax credits available for allocation to each of its potential investors.

(e) If a certified capital company does not receive certified capital equaling the amount of premium tax credits allocated to a potential certified investor for which the investor filed a premium tax allocation claim within 10 business days after the investor received a notice of allocation, the certified capital company shall notify the office by overnight common carrier delivery service of the company's failure to receive the capital. That portion of the premium tax credits allocated to the certified capital company shall be forfeited. *The department may levy a fine of not more than $50,000 on any certified investor that does not invest the full amount of certified capital allocated by the department to such investor in accordance with the affidavit filed on its behalf.* If the office must make a pro rata allocation under paragraph (f), the office shall reallocate such available credits among the other certified capital companies on the same pro rata basis as the initial allocation.

(f) If the total amount of capital committed by all certified investors to certified capital companies in premium tax allocation claims *under Program Two* exceeds the aggregate cap on the amount of credits that may be awarded *under Program Two*, the premium tax credits that may be allowed to any one certified investor *under Program Two* shall be allocated using the following ratio:

A/B = X/$250,000,000
~~A/B = X/$150,000,000~~

where the letter "A" represents the total amount of certified capital certified investors have agreed to invest in any one certified capital company *under Program Two*, the letter "B" represents the aggregate amount of certified capital that all certified investors have agreed to invest in all certified capital companies *under Program Two*, the letter "X" is the numerator and represents the total amount of premium tax credits and certified capital that may be allocated to a certified capital company *on April 1, 2002* ~~in calendar year 1999~~, and *$250* ~~$150~~ million is the denominator and represents the total amount of premium tax credits and certified capital that may be allocated to all certified investors in calendar year *2002* ~~1999~~. Any such premium tax credits are not first available for utilization until annual filings are made in 2001 for calendar year 2000 *in the case of Program One, and until annual filings are made in 2004 for calendar year 2003 in the case of Program Two*, and the tax credits may be used at a rate not to exceed 10 percent annually *per program*.

(g) The maximum amount of certified capital for which premium tax allocation claims may be filed on behalf of any certified investor and its affiliates by one or more certified *capital* companies may not exceed $15 million *with respect to Program One and $25 million with respect to Program Two*.

(h) To the extent that less than *$250* ~~$150~~ million in certified capital is raised in connection with the procedure set forth in paragraphs (c)-(g), the department may adopt rules to allow a subsequent allocation of the remaining premium tax credits authorized under this section.

(i) The Office shall issue a certification letter for each certified investor, showing the amount invested in the certified capital company under each program. The applicable certified capital company shall attest to the validity of the certification letter.

(8) ANNUAL TAX CREDIT; CLAIM PROCESS.—

(a) On an annual basis, on or before *January* ~~December~~ 31, each certified capital company shall file with the department and the office, in consultation with the department, on a form prescribed by the office, for each calendar year:

1. The total dollar amount the certified capital company received from certified investors, the identity of the certified investors, and the amount received from each certified investor during the *immediately preceding* calendar year.

2. The total dollar amount the certified capital company invested and the amount invested in qualified businesses, together with the identity and location of those businesses and the amount invested in each qualified business *during the immediately preceding calendar year*.

3. For informational purposes only, the total number of permanent, full-time jobs either created or retained by the qualified business during the *immediately preceding* calendar year, the average wage of the jobs created or retained, the industry sectors in which the qualified businesses operate, and any additional capital invested in qualified businesses from sources other than certified capital companies.

(9) REQUIREMENT FOR 100 PERCENT INVESTMENT; STATE PARTICIPATION.—

(a) A certified capital company may make qualified distributions at any time. In order to make a distribution to its equity holders, other than a qualified distribution *out of funds related to a particular program*, a certified capital company must have invested an amount cumulatively equal to 100 percent of its certified capital *raised under*

such program in qualified investments. Payments to debt holders of a certified capital company, however, may be made without restriction with respect to repayments of principal and interest on indebtedness owed to them by a certified capital company, including indebtedness of the certified capital company on which certified investors earned premium tax credits. A debt holder that is also a certified investor or equity holder of a certified capital company may receive payments with respect to such debt without restrictions.

(b) Cumulative distributions from a certified capital company *out of funds related to a particular program* to its certified investors and equity holders *under such program*, other than qualified distributions, in excess of the certified capital company's original certified capital *raised under such program* and any additional capital contributions to the certified capital company *with respect to such program* may be audited by a nationally recognized certified public accounting firm acceptable to the department, at the expense of the certified capital company, if the department directs such audit be conducted. The audit shall determine whether aggregate cumulative distributions from the *funds related to a particular program made by the* certified capital company to all certified investors and equity holders *under such program*, other than qualified distributions, have equaled the sum of the certified capital company's original certified capital *raised under such program* and any additional capital contributions to the certified capital company *with respect to such program*. If at the time of any such distribution made by the certified capital company, such distribution taken together with all other such distributions *from the funds related to such program* made by the certified capital company, other than qualified distributions, exceeds in the aggregate the sum of the certified capital company's original certified capital *raised under such program* and any additional capital contributions to the certified capital company *with respect to such program*, as determined by the audit, the certified capital company shall pay to the Department of Revenue 10 percent of the portion of such distribution in excess of such amount. Payments to the Department of Revenue by a certified capital company pursuant to this paragraph shall not exceed the aggregate amount of tax credits used by all certified investors in such certified capital company *for such program*.

(10) DECERTIFICATION.—

(f) Decertification of a certified capital company for failure to meet all requirements for continued certification under paragraph (5)(a) *with respect to the certified capital raised under a particular program* may cause the recapture of premium tax credits previously claimed by such company *under such program* and the forfeiture of future premium tax credits to be claimed by certified investors *under such program* with respect to such certified capital company, as follows:

1. Decertification of a certified capital company within 3 years after its certification date *with respect to a particular program* shall cause the recapture of all premium tax credits *earned under such program and* previously claimed by such company and the forfeiture of all future premium tax credits *earned under such program which are* to be claimed by certified investors with respect to such company.

2. When a certified capital company meets all requirements for continued certification under subparagraph (5)(a)1. *with respect to certified capital raised under a particular program* and subsequently fails to meet the requirements for continued certification under the provisions of subparagraph (5)(a)2. *with respect to certified capital raised under such program*, those premium tax credits *earned under such program* which have been or will be taken by certified investors within 3 years after the certification date of the certified capital company *with respect to such program* shall not be subject to recapture or forfeiture; however, all premium tax credits *earned under such program* that have been or will be taken by certified investors after the third anniversary of the certification date of the certified capital company *for such program* shall be subject to recapture or forfeiture.

3. When a certified capital company meets all requirements for continued certification under subparagraphs (5)(a)1. and 2. *with respect to a particular program* and subsequently fails to meet the requirements for continued certification under the subparagraph (5)(a)3. *with respect to such program*, those premium tax credits *earned under such program* which have been or will be taken by certified investors within 4 years after the certification date of the certified capital company *with respect to such program* shall not be subject to recapture or forfeiture; however, all premium tax credits *earned under such program* that have been or will be taken by certified investors after the fourth anniversary of the certification date of the certified capital company *with respect to such program* shall be subject to recapture and forfeiture.

4. If a certified capital company has met all requirements for continued certification under paragraph (5)(a) *with respect to certified capital raised under a particular program*, but such company is subsequently decertified, those premium tax credits *earned under such program* which have been or will be taken by certified investors within 5 years after the certification date of such company *with respect to such program* shall not be subject to recapture or forfeiture. Those premium tax credits *earned under such program and* to be taken subsequent to the 5th year of certification *with respect to such program* shall be subject to forfeiture only if the certified capital company is decertified within 5 years after its certification date *with respect to such program*.

5. If a certified capital company has invested an amount cumulatively equal to 100 percent of its certified capital *raised under a particular program* in qualified investments, all premium tax credits claimed or to be claimed by its certified investors *under such program* shall not be subject to recapture or forfeiture.

Section 2. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, lines 3-12,
remove from the title of the bill:

and insert in lieu thereof: Company Act; amending s. 288.99, F.S.; redefining the terms "early stage technology business" and "qualified distribution"; defining the terms "Program One" and "Program Two"; revising procedures and dates for certification and decertification under Program One and Program Two; revising the process for earning premium tax credits; providing a limitation on tax credits under Program Two; authorizing the Department of Banking and Finance to levy a fine; providing for distributions under both programs;

Rep. Bense moved the adoption of the amendment.

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 093641)

Amendment 1 to Amendment 1—On page 1, line 30,
remove from the amendment: 10

and insert in lieu thereof: *15* ~~10~~

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

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 594801)

Amendment 2 to Amendment 1—On page 2, line 1,
remove from the amendment: 10

and insert in lieu thereof: *15* ~~10~~

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

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 832451)

Amendment 3 to Amendment 1—On page 6, line 20 through page 7, line 2
remove from the amendment: all of said lines

and insert in lieu thereof:

1. *Reasonable* costs and expenses*, including professional fees,* of forming *and*~~,~~ syndicating *the certified capital company, if no such costs are paid to a certified investor and the total cash, cash equivalents and other current assets permitted by s. 288.99(5)(b)3.g. that can be converted into cash within 5 business days available to the certified capital company at the time of receipt of certified capital from certified investors, after deducting the costs and expenses of forming and syndicating the certified capital company, including any payments made over time for obligations incurred at the time of receipt of certified capital excluding other future qualified distributions and payments made under s. 288.99(9)(a), are an amount equal to or greater than 50 percent of the total certified capital allocated to the certified capital pursuant to s. 288.99(7);*~~,~~

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

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 510575)

Amendment 4 to Amendment 1—On page 12, line 24,
remove from the amendment: *10*

and insert in lieu thereof: *15*

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

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 650433)

Amendment 5 to Amendment 1—On page 12, lines 26-28,
remove from the amendment: all of said lines

and insert in lieu thereof: company. This

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

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 785173)

Amendment 6 to Amendment 1 (with directory language amendment)—On page 14, between lines 21&22 of the amendment

insert:

(b) All capital not invested in qualified investments by the certified capital company:

1. Must be held in a financial institution as defined by s. 655.005(1)(h) or held by a broker-dealer registered under s. 517.12*, except as set forth in s. 288.99(5)(b)3.g.*

2. Must not be invested in a certified investor of the certified capital company or any affiliate of the certified investor of the certified capital company*, except for an investment permitted by s. 288.99(5)(b)3.g., provided repayment terms do not permit the obligor to directly or indirectly manage or control the investment decisions of the certified capital company*.

3. Must be invested only in:

a. Any United States Treasury obligations;

b. Certificates of deposit or other obligations, maturing within 3 years after acquisition of such certificates or obligations, issued by any financial institution or trust company incorporated under the laws of the United States;

c. Marketable obligations, maturing within 5 years or less after the acquisition of such obligations, which are rated "A" or better by any nationally recognized credit rating agency;

d. Mortgage-backed securities, with an average life of 5 years or less, after the acquisition of such securities, which are rated "A" or better by any nationally recognized credit rating agency;

e. Collateralized mortgage obligations and real estate mortgage investment conduits that are direct obligations of an agency of the United States Government; are not private-label issues; are in book-entry form; and do not include the classes of interest only, principal only, residual, or zero; ~~or~~

f. Interests in money market funds, the portfolio of which is limited to cash and obligations described in sub-subparagraphs a.-d.;*or*

g. Obligations that are issued by an insurance company that is not a certified investor of the certified capital company making the investment, that has provided a guarantee indemnity bond, insurance policy, or other payment undertaking in favor of the certified capital company's certified investors as permitted by s. 288.99(3)(m)1. or an affiliate of such insurance company as defined by s. 288.99(3)(a)3. that is not a certified investor of the certified capital company making the investment, provided that such obligations are:

(I) Issued or guaranteed as to principal by an entity whose senior debt is rated "AA" or better by Standard & Poor's Ratings Group or such other nationally recognized credit rating agency as the Department may by rule determine;

(II) Not subordinated to other unsecured indebtedness of the issuer or the guarantor;

(III) Invested by such issuing entity in accordance with s. 288.99(5)(b)3.a.-f.; and

(IV) Readily convertible into cash within 5 business days for the purpose of making a Qualified Investment unless such obligations are held to provide a guarantee, indemnity bond, insurance policy, or other payment undertaking in favor of the certified capital company's certified investors as permitted by s. 288.99(3)(m)1.

And the directory language is amended as follows:

On page 1, line 17,

after (a) insert: and (b)

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

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 725935)

Amendment 7 to Amendment 1—On page 15, line 18 through page 16, line 3,
remove from the amendment: all of said lines

and insert in lieu thereof:

(c) Each certified capital company must apply to the office for an allocation of premium tax credits for potential certified investors by March 15, 1999, on a form developed by the office with the cooperation of the Department of Revenue. The form shall be accompanied by an affidavit from each potential certified investor confirming that the potential certified investor has agreed to make an investment of certified capital in a certified capital company up to a specified amount, subject only to the receipt of a premium tax credit allocation pursuant to this subsection. *No certified capital company shall submit premium tax allocation claims on behalf of certified investors that in the aggregate would exceed the total dollar amount appropriated by the Legislature for the specific program.* No allocation shall be made to the potential investors of a certified capital company unless such certified capital company has filed premium tax allocation claims that would result in an allocation to the potential investors in such certified capital company of not less than $15 million in the aggregate.

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

Representative(s) Crow and Bense offered the following:

(Amendment Bar Code: 333297)

Amendment 8 to Amendment 1—On page 17, line 29,
remove from the amendment: *$25*

and insert in lieu thereof: *$37.5*

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

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

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

CS/HB 979—A bill to be entitled An act relating to Okaloosa County; creating and establishing an independent special district in said county to be known as the North Okaloosa Fire District; creating a charter; describing the district; prescribing its powers; providing for a board of fire commissioners; providing for compensation; requiring a bond; providing for terms of office and for filling vacancies in office; providing for meetings, minutes of meetings, and public access; providing for financial matters; authorizing non-ad valorem assessments; authorizing the district to accept gifts and donations; providing the district's fiscal year; providing for collection of taxes; providing limits and guidelines for indebtedness of the district; prescribing authorized uses of district funds; providing a penalty; ratifying actions previously taken; requiring certain notice of legal action; providing for a district expansion and merger; providing severability; providing for a referendum; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1265—A bill to be entitled An act creating the Phosphogypsum Stack System Safety Assurance Trust Fund; providing for its purpose and source of moneys; providing for review and termination or re-creation of the trust fund; providing a contingent effective date.

—was read the second time by title.

On motion by Rep. Kyle, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Kyle, Byrd, and Greenstein offered the following:

(Amendment Bar Code: 924587)

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

and insert in lieu thereof:

Section 1. Section 723.06115, Florida Statutes, is created to read:

723.06115 Florida Mobile Home Relocation Trust Fund.—

(1) There is established within the Department of Business and Professional Regulation the Florida Mobile Home Relocation Trust Fund, to be used by the department for the purpose of funding the administration and operations of the Florida Mobile Home Relocation Corporation. All interest earned from the investment or deposit of moneys in the trust fund shall be deposited in the trust fund. The trust fund shall be funded from the moneys collected by the department under s. 723.06116 from mobile home park owners who change the use of their mobile home parks and by other appropriated funds.

(2) Moneys in the Florida Mobile Home Relocation Trust Fund may be expended only:

(a) To pay the administration costs of the Florida Mobile Home Relocation Corporation; and

(b) To carry out the purposes and objectives of the Florida Mobile Home Relocation Corporation by making payments to mobile home owners under the relocation program.

Section 2. *In accordance with Section 19(f)(2), Article III of the State Constitution, the Florida Mobile Home Relocation Trust Fund shall, unless terminated sooner, be terminated on July 1, 2005. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2), Florida Statutes.*

Section 3. Section 723.06116, Florida Statutes, is created to read:

723.06116 Payments to the Florida Mobile Home Relocation Trust Fund.—

(1) If a mobile home owner is required to move due to a change in use of the land comprising a mobile home park as set forth in s. 723.061(1)(d), the mobile home park owner shall, upon such change in use, pay to the department for deposit in the Florida Mobile Home Relocation Trust Fund $2,000 for each single-section mobile home and $2,500 for each multisection mobile home for which a mobile home owner has made application for payment of moving expenses.

(2) A mobile home park owner is not required to make the payment prescribed in subsection (1), nor is the mobile home owner entitled to compensation under s. 723.0612, when:

(a) The mobile home park owner moves a mobile home owner to another space in the mobile home park or to another mobile home park at the park owner's expense;

(b) A mobile home owner is vacating the premises and has informed the mobile home park owner or manager before the change in use notice has been given; or

(c) A mobile home owner abandons the mobile home as set forth in s. 723.0612(8).

Section 4. *There is hereby appropriated to the Florida Mobile Home Relocation Trust Fund the sum of $500,000 of nonrecurring revenues from the General Revenue Fund.*

Section 5. This act shall take effect on the effective date of Committee Substitute for Committee Substitute for Senate Bill 442, but it shall not take effect unless it is enacted by a three-fifths vote of the membership of each house of the Legislature.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to the Florida Mobile Home Relocation Trust Fund; creating s. 723.06115, F.S.; creating the Florida Mobile Home Relocation Trust Fund within the Department of Business and Professional Regulation; providing purposes; providing funding; providing for legislative review and termination or re-creation of the trust fund; creating s. 723.06116, F.S.; requiring that a mobile home park owner make specified payments to the trust fund upon a change in use of the mobile home park which requires a mobile home owner to move; providing exceptions; providing an appropriation; providing a contingent effective date.

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

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

HB 509—A bill to be entitled An act for the relief of Towanna Denise Hopkins, incompetent, by and through Willie Lee Hopkins, her father and legally appointed guardian, Robert Keith Bowman, Jr., son of Towanna Denise Hopkins, and Willie Lee Hopkins, individually; authorizing and directing the Florida Board of Regents, the University of South Florida, and the USF Health Sciences Center Insurance Company to compensate them for injuries and damages sustained as a result of the negligence of agents of the Florida Board of Regents by and through the University of South Florida College of Medicine; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1545—A bill to be entitled An act relating to school district performance; providing a short title; amending s. 229.57, F.S.; requiring the designation and publication of district performance grades; amending s. 236.02, F.S.; revising minimum requirements of the Florida Education Finance Program to include minimum classroom expenditure requirements and associated reporting; creating s. 236.08102, F.S.; authorizing the Legislature to require a school district that fails to meet minimum academic performance standards to meet district minimum classroom expenditure requirements; providing for monitoring; requiring reports; amending s. 237.041, F.S.; requiring a district's annual budget to include provision for required minimum classroom expenditure requirements; amending s. 237.081, F.S.; requiring the advertisement of the tentative school district budget to include notice of minimum classroom expenditure requirements; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 625—A bill to be entitled An act relating to security for public deposits; amending ss. 280.02, 280.04, 280.041, 280.05, 280.051, 280.054, 280.055, 280.07, 280.08, 280.09, 280.10, 280.11, 280.13, and 280.16, F.S.; revising definitions; revising provisions requiring collateral for public deposits; providing for use of certain letters of credit; requiring additional collateral under certain circumstances; providing penalties; specifying certain agreements for use as collateral; prohibiting a qualified public depository from acting as its own custodian; authorizing use of certain letters of credit; providing requirements; revising triggering events for certain actions by the Treasurer; revising powers and duties of the Treasurer; clarifying grounds for suspension or disqualification of a qualified public depository; revising conditions for imposition of an administrative penalty; clarifying criteria for the Treasurer to issue certain orders; providing for contingent liability; clarifying procedures for payment of losses; providing for deposit of draws on letters of credit into the Public Deposits Trust Fund; revising procedures and requirements relating to effect of mergers, acquisitions, or consolidations; providing conditions for eligibility of certain letters of credit as collateral; clarifying requirements of qualified public depositories; creating s. 280.071, F.S.; creating the Qualified Public Depository Oversight Board; providing purposes; requiring the Treasurer to initiate selection of board members; providing for selection of board members by certain qualified public depositories; providing qualifications; providing powers and duties of the board; authorizing the Treasurer to adopt rules for certain purposes; providing an effective date.

—was read the second time by title.

The Committee on State Administration offered the following:

(Amendment Bar Code: 320171)

Amendment 1 (with title amendment)—
remove from the bill: everything after the enacting clause,

and insert in lieu thereof:

Section 1. Section 280.02, Florida Statutes, is amended to read:

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

(1) "Affiliate" means an entity that is related through a parent corporation's controlling interest. The term also includes any financial institution holding company or any subsidiary or service corporation of such holding company.

(2) "Alternative participation agreement" means an agreement of restrictions that a qualified public depository completes as an alternative to immediately withdrawing from the public deposits program due to financial condition.

(3)~~(2)~~ "Average daily balance" means the average daily balance of public deposits held during the reported month. The average daily balance must be determined by totaling, by account, the daily balances held by the depositor and then dividing the total by the number of calendar days in the month. Deposit insurance is then deducted from each account balance and the resulting amounts are totaled to obtain the average daily balance.

(4)~~(3)~~ "Average monthly balance" means the average monthly balance of public deposits held, before deducting deposit insurance, by the depository during any 12 calendar months. The average monthly balance of the previous 12 calendar months must be determined by adding the average daily balance before deducting deposit insurance for the reported month and the average daily balances before deducting deposit insurance for the 11 months preceding that month and dividing the total by 12.

(5)~~(4)~~ "Book-entry form" means that securities are not represented by a paper certificate but represented by an account entry on the records of a depository trust clearing system or, in the case of United States Government securities, a Federal Reserve Bank.

(6)~~(5)~~ "Capital account" means total equity capital, as defined on the balance-sheet portion of the Consolidated Reports of Condition and Income (call report) or the Thrift Financial Report, less intangible assets, as submitted to the regulatory banking authority.

(7)~~(6)~~ "Collateral-pledging level," for qualified public depositories, means the percentage of collateral required to be pledged as provided in s. 280.04 by a financial institution.

(8)~~(7)~~ "Current month" means the month immediately following the month for which the monthly report is due from qualified public depositories.

(9)~~(8)~~ "Custodian" means the Treasurer or any bank, savings association, or trust company that:

(a) Is organized and existing under the laws of this state, any other state, or the United States;

(b) Has executed all forms required under this chapter or any rule adopted hereunder;

(c) Agrees to be subject to the jurisdiction of the courts of this state, or of courts of the United States which are located within this state, for the purpose of any litigation arising out of this chapter; and

(d) Has been approved by the Treasurer to act as a custodian.

(10)~~(9)~~ "Default or insolvency" includes, without limitation, the failure or refusal of a qualified public depository to pay any check or warrant drawn upon sufficient and collected funds by any public depositor or to return any deposit on demand or at maturity together with interest as agreed; the issuance of an order by any supervisory authority restraining such depository from making payments of deposit liabilities; or the appointment of a receiver for such depository.

(11)~~(10)~~ "Effective date of notice of withdrawal or order of discontinuance" pursuant to s. 280.11(3) means that date which is set out as such in any notice of withdrawal or order of discontinuance from the Treasurer.

(12)~~(11)~~ "Eligible collateral" means securities, *Federal Home Loan Bank letters of credit, and cash,* as designated in s. 280.13.

(13)~~(12)~~ "Financial institution" means, including, but not limited to, an association, bank, brokerage firm, credit union, industrial savings bank, savings and loan association, trust company, or other type of financial institution organized under the laws of this state or any other state of the United States and doing business in this state or any other state, in the general nature of the business conducted by banks and savings associations.

(14)~~(13)~~ "Governmental unit" means the state or any county, school district, community college district, special district, metropolitan

government, or municipality, including any agency, board, bureau, commission, and institution of any of such entities, or any court.

(15)~~(14)~~ "Loss to public depositors" means loss of all principal and all interest or other earnings on the principal accrued or accruing as of the date the qualified public depository was declared in default or insolvent.

(16) "Market value" means the value of collateral calculated pursuant to s. 280.04.

(17)~~(15)~~ "Operating subsidiary" means the qualified public depository's 100-percent owned corporation that has ownership of pledged collateral. The operating subsidiary may have no powers beyond those that its parent qualified public depository may itself exercise. The use of an operating subsidiary is at the discretion of the qualified public depository and must meet the Treasurer's requirements.

(18) "Oversight board" means the qualified public depository oversight board created in s. 280.071 for the purpose of safeguarding the integrity of the public deposits program and preventing the realization of loss assessments through standards, policies, and recommendations for actions to the Treasurer.

(19)~~(16)~~ "Pledged collateral" means securities or cash held separately and distinctly by an eligible custodian for the benefit of the Treasurer to be used as security for Florida public deposits. This includes maturity and call proceeds.

(20)~~(17)~~ "Pledgor" means the qualified public depository and, if one is used, operating subsidiary.

(21)~~(18)~~ "Pool figure" means the total average monthly balances of public deposits held by all qualified public depositories during the immediately preceding 12-month period.

(22)~~(19)~~ "Previous month" means the month or months immediately preceding the month for which a monthly report is due from qualified public depositories.

(23)~~(20)~~ "Public deposit" means the moneys of the state or of any county, school district, community college district, special district, metropolitan government, or municipality, including agencies, boards, bureaus, commissions, and institutions of any of the foregoing, or of any court, and includes the moneys of all county officers, including constitutional officers, that are placed on deposit in a bank, savings bank, or savings association and for which the bank, savings bank, or savings association is required to maintain reserves. This includes, but is not limited to, time deposit accounts, demand deposit accounts, and nonnegotiable certificates of deposit. Moneys in deposit notes and in other nondeposit accounts such as repurchase or reverse repurchase operations are not public deposits. Securities, mutual funds, and similar types of investments are not considered public deposits and shall not be subject to the provisions of this chapter.

(24)~~(21)~~ "Public depositor" means the Treasurer or other chief financial officer or designee responsible for handling public deposits.

(25)~~(22)~~ "Public deposits program" means the *Florida Security for Public Deposits Act contained in* ~~administration of~~ this chapter *and any rule adopted under this chapter* ~~by or on behalf of the Treasurer~~.

(26)~~(23)~~ "Qualified public depository" means any bank, savings bank, or savings association that:

(a) Is organized and exists under the laws of the United States, the laws of this state or any other state or territory of the United States.

(b) Has its principal place of business in this state or has a branch office in this state which is authorized under the laws of this state or of the United States to receive deposits in this state.

(c) Has deposit insurance under the provision of the Federal Deposit Insurance Act, as amended, 12 U.S.C. ss. 1811 et seq.

(d) Has procedures and practices for accurate identification, classification, reporting, and collateralization of public deposits.

(e) Meets all the requirements of this chapter.

(f) Has been designated by the Treasurer as a qualified public depository.

(27)~~(24)~~ "Reported month" means the month for which a monthly report is due from qualified public depositories.

(28)~~(25)~~ "Required collateral" of a qualified public depository means eligible collateral having a market value equal to or in excess of the amount required ~~to be pledged~~ pursuant to s. 280.04 ~~as computed and reported monthly or when requested by the Treasurer~~.

(29)~~(26)~~ "Treasurer" means the Treasurer of the State of Florida.

(30)~~(27)~~ "Treasurer's custody" is a collateral arrangement governed by a contract between a designated Treasurer's custodian and the Treasurer. This arrangement requires collateral to be in the Treasurer's name in order to perfect the security interest.

(31)~~(28)~~ "Triggering events" are events set out in *section* ~~subsection~~ 280.041~~(4)~~ which give the Treasurer~~, as pledgee,~~ the right to*:*

(a) Instruct the custodian to transfer securities pledged, interest payments, and other proceeds of pledged collateral not previously credited to the pledgor.

(b) Demand payment under letters of credit.

Section 2. Section 280.04, Florida Statutes, is amended to read:

280.04 Collateral for public deposits; general provisions.—

(1) The Treasurer shall determine the collateral requirements and collateral pledging level for each qualified public depository following procedures established by rule. These procedures shall include numerical parameters for 25-percent, 50-percent, 125-percent, and 200-percent pledge levels based on nationally recognized financial rating services information and established financial performance guidelines.

(2) A qualified public depository may not accept or retain any public deposit which is required to be secured unless it has deposited with the Treasurer eligible collateral at least equal to the greater of:

(a) The average daily balance of public deposits that does not exceed the lesser of its capital account or 20 percent of the pool figure multiplied by the depository's collateral-pledging level, plus the greater of:

1. One hundred twenty-five percent of the average daily balance of public deposits in excess of capital accounts; or

2. One hundred twenty-five percent of the average daily balance of public deposits in excess of 20 percent of the pool figure.

(b) Twenty-five percent of the average monthly balance of public deposits.

(c) One hundred twenty-five percent of the average daily balance of public deposits if the qualified public depository:

1. Has been established for less than 3 years;

2. Has experienced material decreases in its capital accounts; or

3. Has an overall financial condition that is materially deteriorating.

(d) Two hundred percent of an established maximum amount of public deposits that has been mutually agreed upon by and between the Treasurer and the qualified public depository.

(e) Minimum required collateral of $100,000.

(f) An amount as required in special instructions from the Treasurer to protect the integrity of the public deposits program.

(3) Each qualified public depository shall report its required collateral on the monthly report required in s. 280.16 and simultaneously pledge, deposit, or issue eligible collateral needed.

(4)~~(3)~~ Additional collateral is required within *2 business days* ~~48 hours~~ if public deposits are accepted that would increase the qualified public depository's average daily balance for the current month by 25 percent over the average daily balance of the previously reported month.

(5)~~(4)~~ Additional collateral of 20 percent of required collateral is necessary if a valuation date other than the close of business as described below has been approved for the qualified public depository and the required collateral is found to be insufficient based on the Treasurer's valuation.

(6)~~(5)~~ Each qualified public depository shall value its collateral in the following manner; it must:

(a) Use a nationally recognized source.

(b) Use market price, quality ratings, and pay-down factors as of the close of business on the last banking day in the reported month, or as of a date approved by the Treasurer.

(c) Report any material decline in value that occurs before the date of mailing the monthly report*, required in s. 280.16,* to the Treasurer.

(d) Use 100 percent of the maximum amount available under Federal Home Loan Bank letters of credit as market value.

(7) A qualified public depository shall pledge, deposit, or issue additional eligible collateral between filing periods of the monthly report required in s. 280.16 when notified by the Treasurer that current market value of collateral does not meet required collateral. The pledge, deposit, or issuance of such additional collateral shall be made within 2 business days after the Treasurer's notification.

(8) A qualified public depository may be required to return public deposits to governmental units and be suspended or disqualified or subjected to administrative penalty as provided in s. 280.051 or s. 280.054 for failure to meet required collateral.

(9) The Treasurer shall adopt rules for the establishment of collateral requirements, collateral pledging levels, required collateral calculations, and market value and clarifying terms.

Section 3. Effective July 1, 2001, section 280.041, Florida Statutes, is amended to read:

280.041 Collateral arrangements; agreements, provisions, and triggering events.—

(1) Eligible collateral listed in s. 280.13 may be pledged, deposited, or issued using the following collateral arrangements as approved by the Treasurer for a qualified public depository or operating subsidiary, if one is used, to meet required collateral:

(a) Regular custody arrangement for collateral pledged to the Treasurer pursuant to subsection (2).

(b) Federal Reserve Bank custody arrangement for collateral pledged to the Treasurer pursuant to subsection (3).

(c) Treasurer's custody arrangement for collateral deposited in the Treasurer's name pursuant to subsection (4).

(d) Federal Home Loan Bank letter of credit arrangement for collateral issued with the Treasurer as beneficiary pursuant to subsection (5).

(e) Cash arrangement for collateral held by the Treasurer or a custodian.

(2)~~(1)~~ With the approval of the Treasurer, a qualified public depository or operating subsidiary, as pledgor, may deposit eligible collateral with a custodian. *A qualified public depository shall not act as its own custodian.* Except in the case of using a Federal Reserve Bank as custodian, ~~which may require other collateral agreement provisions,~~ the following are necessary for the Treasurer's approval:

(a) A completed collateral agreement in a form prescribed by the Treasurer in which the pledgor agrees to the following provisions:

1. The pledgor shall own the pledged collateral *and acknowledge that the Treasurer has a perfected security interest*. The pledged collateral shall be eligible collateral and shall be at least equal to the amount of required collateral.

2. The pledgor shall grant to the Treasurer an interest in pledged collateral for the purposes of this section. The pledgor shall not enter into or execute any other agreement related to the pledged collateral that would create an interest in or lien on that collateral in any manner in favor of any third party without the written consent of the Treasurer.

3. The pledgor shall not grant the custodian any lien that attaches to the collateral in favor of the custodian that is superior or equal to the security interest of the Treasurer.

4. The pledgor shall agree that the Treasurer may, without notice to or consent by the pledgor, require the custodian to comply with and perform any and all requests and orders directly from the Treasurer. These include, but are not limited to, liquidating all collateral and submitting the proceeds directly to the Treasurer in the name of the Treasurer only or transferring all collateral into an account designated solely by the Treasurer.

5. The pledgor shall acknowledge that the Treasurer may, without notice to or consent by the pledgor, require the custodian to hold principal payments and income for the benefit of the Treasurer.

6. The pledgor shall initiate collateral transactions on forms prescribed by the Treasurer in the following manner:

a. A deposit transaction of eligible collateral may be made without prior approval from the Treasurer provided: security types that have restrictions have been approved in advance of the transaction by the Treasurer and simultaneous notification is given to the Treasurer; and the custodian has not received notice from the Treasurer prohibiting deposits without prior approval.

b. A substitution transaction of eligible collateral may be made without prior approval from the Treasurer provided: security types that have restrictions have been approved in advance of the transaction by the Treasurer; the market value of the securities to be substituted is at least equal to the amount withdrawn; simultaneous notification is given to the Treasurer; and the custodian has not received notice from the Treasurer prohibiting substitution.

c. A transfer of collateral between accounts at a custodian requires the Treasurer's prior approval. The collateral shall be released subject to redeposit in the new account with a pledge to the Treasurer intact.

d. A transfer of collateral from a custodian to another custodian requires the Treasurer's prior approval and a valid collateral agreement with the new custodian. The collateral shall be released subject to redeposit at the new custodian with a pledge to the Treasurer intact.

e. A withdrawal transaction requires the Treasurer's prior approval. The market value of eligible collateral remaining after the withdrawal shall be at least equal to the amount of required collateral. A withdrawal transaction shall be executed for any release of collateral including maturity or call proceeds.

f. Written notice shall be sent to the Treasurer to remove from the inventory of pledged collateral a pay-down security that has paid out with zero principal remaining.

7. If pledged collateral includes definitive (physical) securities in registered form which are in the name of the pledgor or a nominee, the pledgor shall deliver the following documents when requested by the Treasurer:

a. A separate certified power of attorney in a form prescribed by the Treasurer for each issue of securities.

b. Separate bond assignment forms as required by the bond agent or trustee.

c. Certified copies of resolutions adopted by the pledgor's governing body authorizing execution of these documents.

8. The pledgor shall be responsible for all costs necessary to the functioning of the collateral agreement or associated with confirmation of pledged collateral to the Treasurer and acknowledges that these costs shall not be a charge against the Treasurer or his or her interests in the pledged collateral.

9. The pledgor, if notified by the Treasurer, shall not be allowed to use a custodian if that custodian fails to complete the collateral agreement, releases pledged collateral without the Treasurer's approval, fails to properly complete confirmations of pledged collateral, fails to honor a request for examination of definitive pledged collateral and records of book-entry securities, or fails to provide requested documents on definitive securities. *The period for disallowing the use of a custodian shall be 1 year.*

10. The pledgor shall be subject to the jurisdiction of the courts of the State of Florida, or of courts of the United States located within the State of Florida, for the purpose of any litigation arising out of the act.

11. The pledgor is responsible and liable to the Treasurer for any action of agents the pledgor uses to execute collateral transactions or submit reports to the Treasurer.

12. The pledgor shall agree that any information, forms, or reports electronically transmitted to the Treasurer shall have the same enforceability as a signed writing.

13. The pledgor shall submit proof that authorized individuals executed the collateral agreement on behalf of the pledgor.

14. The pledgor shall agree by resolution of the board of directors that collateral agreements entered into for purposes of this section have been formally accepted and constitute official records of the pledgor.

15. The pledgor shall be bound by any other provisions found necessary for a perfected security interest in collateral under the Uniform Commercial Code.

(b) A completed collateral agreement in a form prescribed by the Treasurer in which the custodian agrees to the following provisions:

1. The custodian shall have no responsibility to ascertain whether the pledged securities are at least equal to the amount of required collateral nor whether the pledged securities are eligible collateral.

2. The custodian shall hold pledged collateral in a custody account for the Treasurer for purposes of this section. The custodian shall not enter into or execute any other agreement related to the collateral that would create an interest in or lien on that collateral in any manner in favor of any third party without the written consent of the Treasurer.

3. The custodian shall agree that any lien that attaches to the collateral in favor of the custodian shall not be superior or equal to the security interest of the Treasurer.

4. The custodian shall, without notice to or consent by the pledgor, comply with and perform any and all requests and orders directly from the Treasurer. These include, but are not limited to, liquidating all collateral and submitting the proceeds directly to the Treasurer in the name of the Treasurer only or transferring all collateral into an account designated solely by the Treasurer.

5. The custodian shall consider principal payments on pay-down securities and income paid on pledged collateral as the property of the pledgor and shall pay thereto provided the custodian has not received written notice from the Treasurer to hold such principal payments and income for the benefit of the Treasurer.

6. The custodian shall process collateral transactions on forms prescribed by the Treasurer in the following manner:

a. A deposit transaction of eligible collateral may be made without prior approval from the Treasurer unless the custodian has received notice from the Treasurer requiring the Treasurer's prior approval.

b. A substitution transaction of eligible collateral may be made without prior approval from the Treasurer provided the pledgor certifies the market value of the securities to be substituted is at least equal to the market value amount of the securities to be withdrawn and the custodian has not received notice from the Treasurer prohibiting substitution.

c. A transfer of collateral between accounts at a custodian requires the Treasurer's prior approval. The collateral shall be released subject to redeposit in the new account with a pledge to the Treasurer intact. Confirmation from the custodian to the Treasurer must be received within 5 business days of the redeposit.

d. A transfer of collateral from a custodian to another custodian requires the Treasurer's prior approval. The collateral shall be released subject to redeposit at the new custodian with a pledge to the Treasurer intact. Confirmation from the new custodian to the Treasurer must be received within 5 business days of the redeposit.

e. A withdrawal transaction requires the Treasurer's prior approval. A withdrawal transaction shall be executed for the release of any pledged collateral including maturity or call proceeds.

7. If pledged collateral includes definitive (physical) securities in registered form, which are in the name of the custodian or a nominee, the custodian shall deliver the following documents when requested by the Treasurer:

a. A separate certified power of attorney in a form prescribed by the Treasurer for each issue of securities.

b. Separate bond assignment forms as required by the bond agent or trustee.

c. Certified copies of resolutions adopted by the custodian's governing body authorizing execution of these documents.

8. The custodian shall acknowledge that the pledgor is responsible for all costs necessary to the functioning of the collateral agreement or associated with confirmation of securities pledged to the Treasurer and that these costs shall not be a charge against the Treasurer or his or her interests in the pledged collateral.

9. The custodian shall agree to provide confirmation of pledged collateral upon request from the Treasurer. This confirmation shall be provided within 15 working days after the request, in a format prescribed by the Treasurer, and shall require no identification other than the pledgor name and location, unless the special identification is provided in the collateral agreement.

10. The custodian shall be subject to the jurisdiction of the courts of the State of Florida, or of courts of the United States located within the State of Florida, for the purpose of any litigation arising out of the act.

11. The custodian shall be responsible and liable to the Treasurer for any action of agents the custodian uses to hold and service collateral pledged to the Treasurer.

12. The custodian shall agree that any information, forms, or reports electronically transmitted to the Treasurer shall have the same enforceability as a signed writing.

13. The Treasurer shall have the right to examine definitive pledged collateral and records of book-entry securities during the regular business hours of the custodian without cost to the Treasurer.

14. The responsibilities of the custodian for the safekeeping of the pledged collateral shall be limited to the diligence and care usually exercised by a banking or trust institution toward its own property.

15. *If there is any change in the Uniform Commercial Code, as adopted by law in this state, which affects the requirements for a perfected security interest in collateral, the Treasurer shall notify the custodian of such change. The custodian shall have a period of 180 calendar days after such notice to withdraw as custodian if the custodian cannot provide the required custodial services.* ~~The custodian shall be~~

~~bound by any other provisions found necessary for the Treasurer to have a perfected security interest in collateral under the Uniform Commercial Code.~~

(3)~~(2)~~ With the approval of the Treasurer, a pledgor may deposit eligible collateral pursuant to an agreement with a Federal Reserve Bank. The Federal Reserve Bank agreement may require terms not consistent with subsection *(2) but may not subject the Treasurer to any costs or indemnification requirements* ~~(1)~~.

(4)~~(3)~~ The Treasurer may require deposit or transfer of collateral into a custodial account established in the Treasurer's name at a designated custodian. This requirement for Treasurer's custody shall have the following characteristics:

(a) One or more triggering events must have occurred.

(b) The custodian used must be a Treasurer's approved custodian that must:

1. Meet the definition of custodian.

2. Not be an affiliate of the qualified public depository.

3. Be bound under a distinct Treasurer's custodial contract.

(c) All deposit transactions require the approval of the Treasurer.

(d) All collateral must be in book-entry form.

(e) The qualified public depository shall be responsible for all costs necessary to the functioning of the contract or associated with the confirmation of securities in the name of the Treasurer and acknowledges that these costs shall not be a charge against the Treasurer and may be deducted from the collateral or income earned if unpaid.

(5) With the approval of the Treasurer, a qualified public depository may use Federal Home Loan Bank letters of credit to meet collateral requirements. A completed agreement that includes the following provisions is necessary for the Treasurer's approval:

(a) The letter of credit shall meet the definition of eligible collateral.

(b) The qualified public depository shall agree that the Treasurer, as beneficiary, may, without notice to or consent by the qualified public depository, demand payment under the letter of credit if any of the triggering events listed in s. 280.041 occur.

(c) The qualified public depository shall agree that funds received by the Treasurer due to the occurrence of one or more triggering events may be deposited in the Treasury Cash Deposit Trust Fund for purposes of eligible collateral.

(d) The qualified public depository shall arrange for the issue of letters of credit which meet the requirements of s. 280.13 and delivery to the Treasurer. All transactions involving letters of credit require the Treasurer's approval.

(e) The qualified public depository shall be responsible for all costs necessary in the use or confirmation of letters of credit issued on behalf of the Treasurer and acknowledges that these costs shall not be a charge against the Treasurer.

(f) The qualified public depository shall be subject to the jurisdiction of the courts of this state, or of courts of the United States which are located within this state, for the purpose of any litigation arising out of the act.

(g) The qualified public depository shall agree that any information, form, or report electronically transmitted to the Treasurer shall have the same enforceability as a signed writing.

(h) The qualified public depository shall submit proof that authorized individuals executed the letters of credit agreement on its behalf.

(i) The qualified public depository shall agree by resolution of the board of directors that the letters of credit agreements entered into for purposes of this section have been formally accepted and constitute official records of the qualified public depository.

(6)~~(4)~~ The Treasurer may *demand payment under a letter of credit or* direct a custodian to deposit or transfer collateral and proceeds of securities not previously credited upon the occurrence of one or more triggering events provided that, to the extent not incompatible with the protection of public deposits, as determined in the Treasurer's sole and absolute discretion, the Treasurer shall provide a custodian *and the qualified public depository* with 48 hours' advance notice before directing such deposit or transfer. These events include:

(a) The Treasurer determines that an immediate danger to the public health, safety, or welfare exists.

(b) The qualified public depository fails to have adequate procedures and practices for the accurate identification, classification, reporting, and collateralization of public deposits.

(c) The custodian fails to provide or allow inspection and verification of documents, reports, records, or other information dealing with the pledged collateral or financial information.

(d) The qualified public depository or its operating subsidiary fails to provide or allow inspection and verification of documents, reports, records, or other information dealing with Florida public deposits, pledged collateral, or financial information.

(e) The custodian fails to hold income and principal payments made on securities held as collateral or fails to deposit or transfer such payments pursuant to the Treasurer's instructions.

(f) The qualified public depository defaults or becomes insolvent.

(g) The qualified public depository fails to pay an assessment.

(h) The qualified public depository fails to pay an administrative penalty.

(i) The qualified public depository fails to meet financial condition standards.

(j) The qualified public depository charges a withdrawal penalty to public depositors when the qualified public depository is suspended, disqualified, or withdrawn from the public deposits program.

(k) The qualified public depository does not provide, as required, the public depositor with annual confirmation information on all open Florida public deposit accounts.

(l) The qualified public depository pledges*, deposits, or has issued* insufficient or unacceptable collateral to *meet required collateral within the required time* ~~cover public deposits~~.

(m) ~~Pledged~~ Collateral, other than a proper substitution, is released without the prior approval of the Treasurer.

(n) The qualified public depository, custodian, operating subsidiary, or agent violates any provision of the act and the Treasurer determines that such violation may be remedied by a move of collateral.

(o) The qualified public depository, custodian, operating subsidiary, or agent fails to timely cooperate in resolving problems by the date established in written communication from the Treasurer.

(p) The custodian fails to provide sufficient confirmation information.

(q) The Federal Home Loan Bank or the qualified public depository gives notification that a letter of credit will not be extended or renewed and other eligible collateral equal to required collateral has not been deposited within 30 days after the notice or 30 days before expiration of the letter of credit.

(r) The qualified public depository, if involved in a merger, acquisition, consolidation, or other organizational change, fails to notify

the Treasurer or ensure that required collateral is properly maintained by the depository holding the Florida public deposits.

(s)~~(q)~~ Events that would bring about an administrative or legal action by the Treasurer.

(7)~~(5)~~ The Treasurer shall adopt rules to identify forms and establish procedures for collateral agreements and transactions, furnish confirmation requirements, establish procedures for using an operating subsidiary and agents, and clarify terms.

Section 4. Section 280.05, Florida Statutes, is amended to read:

280.05 Powers and duties of the Treasurer.—In fulfilling the requirements of this act, the Treasurer has the power to *take the following actions he or she deems necessary to protect the integrity of the public deposits program*:

(1) *Identify representative qualified public depositories and furnish notification for the qualified public depository oversight board selection pursuant to s. 280.071.* ~~Establish criteria, based on the overall financial condition of the participant and applicants, as may be necessary, to protect the integrity of the public deposits program, to:~~

~~(a) Refuse entry into the program by an applicant;~~

~~(b) Order discontinuance of participation in the program by a qualified public depository;~~

~~(c) Restrict the total amount of public deposits a depository may hold;~~

~~(d) Establish collateral pledging levels based on qualitative and quantitative standards; and~~

~~(e) Restrict substitutions of collateral subject to the approval of the Treasurer.~~

~~(2) Appoint a six-member advisory committee to review and recommend criteria to be used by the Treasurer for purposes stated in subsection (1) in order to protect public deposits and the depositories in the program. Each member selected to serve on the advisory committee must be a representative of his or her industry. Advisory committee members must represent active qualified public depositories, not in the process of withdrawing from the public deposits program, in compliance with all applicable rules, regulations, and reporting requirements of this chapter. Members must possess knowledge, skill, and experience in one or more of the following areas:~~

~~(a) Financial analysis;~~

~~(b) Trend analysis;~~

~~(c) Accounting;~~

~~(d) Banking;~~

~~(e) Risk management; or~~

~~(f) Investment management.~~

~~Members' terms shall be for 4 years. Any person appointed to fill a vacancy on the advisory committee may serve only for the remainder of the unexpired term. Any member is eligible for reappointment and shall serve until a successor qualifies. The advisory committee shall elect a chair and vice chair and shall also designate a secretary who need not be a member of the advisory committee. The secretary shall keep a record of the proceedings of the advisory committee and shall be the custodian of all printed materials filed with or by the advisory committee. Notwithstanding the existence of vacancies on the advisory committee, a majority of the members constitutes a quorum. The advisory committee shall not take official action in the absence of a quorum. Each member may name a designee to serve on the advisory committee on behalf of the member. However, any designee so named must meet the qualifications required of the selected member and be approved by the Treasurer. The advisory committee shall convene as needed.~~

(2)~~(3)~~ ~~Establish goals and objectives and~~ Provide ~~other~~ data *for the qualified public depository oversight board duties pursuant to s. 280.071 regarding:*

(a) Establishing standards for qualified public depositories and custodians.

(b) Evaluating requests for exceptions to standards and alternative participation agreements.

(c) Reviewing and recommending action for qualified public depository or custodian violations ~~as may be necessary to assist the advisory committee established under subsection (2) in developing standards for the program~~.

(3)~~(4)~~ Review, implement, monitor, evaluate, and modify~~, as needed,~~ all or any part of the standards*,* ~~and~~ policies*, or recommendations of the qualified public depository oversight board* ~~recommended by an advisory committee~~.

(4)~~(5)~~ Perform financial analysis of any qualified public *depositories* ~~depository as needed~~.

(5)~~(6)~~ Require ~~such~~ collateral, or increase the collateral-pledging level, of any qualified public depository ~~as may be necessary to administer the provisions of this chapter and to protect the integrity of the public deposits program~~.

~~(7) Establish a minimum amount of required collateral as the Treasurer deems necessary to provide for the contingent liability pool.~~

(6)~~(8)~~ Decline to accept, or reduce the reported value of, collateral ~~as circumstances may require~~ in order to ensure the pledging *or depositing* of sufficient marketable collateral *and acceptable letters of credit* ~~to meet the purposes of this chapter~~.

(7)~~(9)~~ Maintain perpetual inventory of ~~pledged~~ collateral and perform monthly market valuations and quality ratings.

(8)~~(10)~~ Monitor and confirm~~, as often as deemed necessary by the Treasurer, the pledged~~ collateral *with* ~~held by third party~~ custodians *and letter of credit issuers*.

(9)~~(11)~~ *Move* ~~Perfect interest in pledged~~ collateral ~~by having pledged securities moved~~ into an account established in the Treasurer's name *upon the occurrence of one or more triggering events*. ~~This action shall be taken at the discretion of the Treasurer.~~

(10) Issue notice to a qualified public depository that use of a custodian will be disallowed when the custodian has failed to follow collateral agreement terms.

(11)~~(12)~~ Furnish written notice to custodians of collateral to hold interest and principal payments made on securities held as collateral and to deposit or transfer such payments pursuant to the Treasurer's instructions.

(12)~~(13)~~ Release collateral held in the Treasurer's name, subject to sale and transfer of funds directly from the custodian to public depositors of a withdrawing depository.

(13) Demand payment under letters of credit for any of the triggering events listed in s. 280.041 and deposit the funds in:

(a) The Public Deposits Trust Fund for purposes of paying losses to public depositors.

(b) The Treasurer's Administrative and Investment Trust Fund for receiving payment of administrative penalties.

(c) The Treasury Cash Deposit Trust Fund for purposes of eligible collateral.

(14) Sell securities for the purpose of paying losses to public depositors not covered by deposit insurance.

(15) Transfer funds directly from the custodian to public depositors or the receiver in order to facilitate prompt payment of claims.

(16) Require the filing of the following reports which the Treasurer shall process as provided:

(a) Qualified public depository monthly reports and schedules. The Treasurer shall review the reports of each qualified public depository for material changes in capital accounts or changes in name, address, or type of institution; record the average daily balances of public deposits held; and monitor the collateral-pledging levels and required collateral.

(b) Quarterly regulatory reports from qualified public depositories. The Treasurer shall analyze qualified public depositories ranked in the lowest category based on established financial condition criteria.

(c) Qualified public depository annual reports and public depositor annual reports. The Treasurer shall compare public deposit information reported by qualified public depositories and public depositors. Such comparison shall be conducted for qualified public depositories which are ranked in the lowest category based on established financial condition criteria of record on September 30. Additional comparison processes may be performed as public deposits program resources permit.

(d) Any related documents, reports, records, or other information deemed necessary by the Treasurer in order to ascertain compliance with this chapter.

(17) Verify the reports of any qualified public depository relating to public deposits it holds when necessary to protect the integrity of the public deposits program.

(18) Confirm public deposits, to the extent possible under current law, when needed.

(19) Require at his or her discretion the filing of any information or forms required under this chapter to be by electronic data transmission. Such filings of information or forms shall have the same enforceability as a signed writing.

(20) Suspend or disqualify or disqualify after suspension any qualified public depository that has violated any of the provisions of this chapter or of rules adopted hereunder.

(a) Any qualified public depository that is suspended or disqualified pursuant to this subsection is subject to the provisions of s. 280.11(2) governing withdrawal from the public deposits program and return of pledged collateral. Any suspension shall not exceed a period of 6 months. Any qualified public depository which has been disqualified may not reapply for qualification until after the expiration of 1 year from the date of the final order of disqualification or the final disposition of any appeal taken therefrom.

(b) In lieu of suspension or disqualification, impose an administrative penalty upon the qualified public depository as provided in s. 280.054.

(c) If the Treasurer has reason to believe that any qualified public depository or any other financial institution holding public deposits is or has been violating any of the provisions of this chapter or of rules adopted hereunder, he or she may issue to the qualified public depository or other financial institution an order to cease and desist from the violation or to correct the condition giving rise to or resulting from the violation. If any qualified public depository or other financial institution violates a cease-and-desist or corrective order, the Treasurer may impose an administrative penalty upon the qualified public depository or other financial institution as provided in s. 280.054 or s. 280.055. In addition to the administrative penalty, the Treasurer may suspend or disqualify any qualified public depository for violation of any order issued pursuant to this paragraph.

Section 5. Subsections (2) and (3) of section 280.051, Florida Statutes, are amended to read:

280.051 Grounds for suspension or disqualification of a qualified public depository.—A qualified public depository may be suspended or disqualified or both if the Treasurer determines that the qualified public depository has:

(2) Submitted reports containing inaccurate or incomplete information regarding public deposits or ~~the securities pledged as~~ collateral for such deposits, capital accounts, or the calculation of required collateral.

(3) Failed to *maintain required* ~~pledge sufficient~~ collateral ~~to cover public deposits~~.

Section 6. Subsection (3) of section 280.054, Florida Statutes, is amended to read:

280.054 Administrative penalty in lieu of suspension or disqualification.—

(3) A qualified public depository ~~that violates s. 280.04(5) or a custodian that violates s. 280.04(6)~~ is subject to an administrative penalty in an amount not exceeding the greater of $1,000 or 10 percent of the amount of withdrawal, not exceeding $10,000*, if the depository fails to provide required collateral using eligible collateral and prescribed collateral agreements or withdraws collateral without the Treasurer's approval*.

Section 7. Paragraph (c) of subsection (1) of section 280.055, Florida Statutes, is amended to read:

280.055 Cease and desist order; corrective order; administrative penalty.—

(1) The Treasurer may issue a cease and desist order and a corrective order upon determining that:

(c) A qualified public depository pledges*, deposits, or arranges for the issuance of* unacceptable collateral;

Section 8. Section 280.07, Florida Statutes, is amended to read:

280.07 Mutual responsibility *and contingent liability*.—Any bank or savings association that is designated as a qualified public depository and that is not insolvent shall guarantee public depositors against loss caused by the default or insolvency of other qualified public depositories. Each qualified public depository shall execute a form prescribed by the Treasurer for such guarantee which shall be approved by the board of directors and shall become an official record of the institution.

Section 9. Section 280.071, Florida Statutes, is created to read:

280.071 Qualified Public Depository Oversight Board; purpose; identifying representative qualified public depositories; member selection; responsibilities.—A Qualified Public Depository Oversight Board is created comprised of six members and six alternate members who represent the interests of all qualified public depositories in safeguarding the integrity of the public deposits program and preventing the realization of loss assessments.

(1) On July 31 of each year and as vacancies occur, the Treasurer shall initiate the selection of oversight board representation in the following manner:

(a) Categorize eligible qualified public depositories into three groups according to average asset size. Eligible qualified public depositories must be in compliance with all requirements and shall not be suspended, disqualified, withdrawing, or under an alternative participation agreement in the public deposits program.

(b) Identify the two qualified public depositories in each of the three groups that have the greatest shares of contingent liability based on the average monthly balances of public deposits reported pursuant to s. 280.16.

(c) Send notification to the six qualified public depositories that have been identified.

(2) Each of the six representative qualified public depositories shall select a member and alternate member for the oversight board and give the Treasurer written information on the selections within 30 calendar days of the Treasurer's notice.

(3) If an identified qualified public depository declines to select a member, does not respond within 30 calendar days, or becomes ineligible, the Treasurer shall furnish notice to the Florida Bankers Association which shall select a member and alternate member to represent that average asset category within 30 calendar days.

(4) Each member and alternate member selected must:

(a) Have resources available for review of qualified public depository issues.

(b) Possess knowledge, skill, and experience in one or more of the following areas:

1. Financial analysis;

2. Trend analysis;

3. Accounting;

4. Banking;

5. Risk management; or

6. Investment management.

(5) The oversight board members and alternate members shall be subject to the Treasurer's approval.

(6) The alternate member shall act on the member's behalf if the member is unable to perform oversight board functions and shall have the same rights, duties, and responsibilities as the member.

(7) Each member shall serve until a successor is selected.

(8) Expenses incurred by a member in carrying out duties of the oversight board shall be paid by his or her representative qualified public depository.

(9) The oversight board shall organize, communicate, and conduct meetings as follows:

(a) Elect a chair and vice chair.

(b) Designate a secretary who need not be a member of the oversight board. The secretary shall:

1. Keep a record of communications and meeting proceedings.

2. Act as custodian of all printed materials filed with or by the oversight board.

(c) Communicate through electronic means and express delivery services when possible.

(d) Meet upon call of the chair or any three members.

(e) Take no official action in the absence of a quorum.

1. A quorum shall consist of the majority of voting members of the oversight board.

2. Each member shall have one vote.

3. A member shall not vote on issues directly related to the qualified public depository he or she represents.

4. The Treasurer or his or her representative shall vote as a member of the oversight board in the absence of a quorum.

(10) The oversight board has the power and responsibility to safeguard the integrity of the public deposits program and prevent the realization of loss assessments by:

(a) Establishing standards in the following areas:

1. Financial institution entry requirements;

2. Qualified public depository reporting requirements;

3. Qualitative and quantitative financial condition requirements;

4. Custodian characteristic requirements and adherence to collateral agreement terms;

5. Collateral-pledging levels and adequacy of required collateral;

6. Collateral eligibility and restrictions;

7. Operating subsidiary and agent requirements;

8. Merger, acquisition, and name change requirements;

9. Participation restrictions;

10. Participation status and conditions for suspension, disqualification, and mandatory withdrawal;

11. Penalties and fines; and

12. Corrective actions and administrative orders.

(b) Recommending approval or rejection to the Treasurer for exceptions that do not meet established standards. These requests for exceptions may be:

1. Referred by the Treasurer; or

2. Submitted directly by the qualified public depository seeking exception.

(c) Issuing approvals or rejections for alternative participation agreements referred by the Treasurer.

(d) Reviewing program violations and recommending that the Treasurer impose penalties and fines or issue corrective actions and administrative orders.

(e) Studying public deposit program areas referred by the Treasurer.

(f) Assessing qualified public depositories, as provided in s. 280.08, to pay for the implementation of standards established by the oversight board which exceed the resources of the public deposits program.

(11) Official actions of the oversight board regarding the establishment of standards, exception and alternate participation agreement decisions, and recommendations concerning violations shall be:

(a) Communicated to the Treasurer in writing.

(b) Subject to approval of the Treasurer.

(c) Implemented as public deposits program resources or payment described in subsection (10) above permit.

(12) The Treasurer may adopt rules to establish procedures and forms for oversight board member and alternate member selection and oversight board functions.

Section 10. Paragraph (a) of subsection (3) and subsections (4) and (7) of section 280.08, Florida Statutes, are amended to read:

280.08 Procedure for payment of losses.—When the Treasurer determines that a default or insolvency has occurred, he or she shall provide notice as required in s. 280.085~~(1)~~ and implement the following procedures:

(3)(a) The loss to public depositors shall be satisfied, insofar as possible, first through any applicable deposit insurance and then through *demanding payment under letters of credit or* the sale of *collateral* ~~securities~~ pledged or deposited by the defaulting depository. The Treasurer may assess qualified public depositories as provided in paragraph (b) for the total loss if the *demand for payment or* sale of *collateral* ~~securities~~ cannot be accomplished within 7 business days.

(4) Each qualified public depository shall pay its assessment to the Treasurer within 7 business days after it receives notice of the assessment. If a depository fails to pay its assessment when due, the Treasurer shall satisfy the assessment by *demanding payment under letters of credit or* selling *collateral* ~~securities~~ pledged *or deposited* by that depository.

(7) Expenses incurred by the Treasurer in connection with a default or insolvency which are not normally incurred by the Treasurer in the administration of this act must be paid out of the *amount paid under letters of credit or* proceeds from the sale of ~~pledged~~ collateral.

Section 11. Section 280.09, Florida Statutes, is amended to read:

280.09 Public Deposits Trust Fund.—

(1) In order to facilitate the administration of this chapter, there is created the Public Deposits Trust Fund, hereafter in this section designated "the fund." The proceeds from the sale of securities *or draw on letters of credit held* ~~pledged~~ as collateral or from any assessment pursuant to s. 280.08 shall be deposited into the fund. Any administrative penalty collected pursuant to this chapter shall be deposited into the Treasurer's Administrative and Investment Trust Fund.

(2) The Treasurer is authorized to pay any losses to public depositors from the fund, and there are hereby appropriated from the fund such sums as may be necessary from time to time to pay the losses. The term "losses," for purposes of this chapter, shall also include losses of interest or other accumulations to the public depositor as a result of penalties for early withdrawal required by Depository Institution Deregulatory Commission Regulations or applicable successor federal laws or regulations because of suspension or disqualification of a qualified public depository by the Treasurer pursuant to s. 280.05~~(20)~~ or because of withdrawal from the public deposits program pursuant to s. 280.11. In that event, the Treasurer is authorized to assess against the suspended, disqualified, or withdrawing public depository, in addition to any amount authorized by any other provision of this chapter, an administrative penalty equal to the amount of the early withdrawal penalty and to pay that amount over to the public depositor as reimbursement for such loss. Any money in the fund estimated not to be needed for immediate cash requirements shall be invested pursuant to s. 18.125.

Section 12. Section 280.10, Florida Statutes, is amended to read:

280.10 Effect of merger*,* ~~or~~ acquisition*, or consolidation*; change of name or address.—

(1) *When* ~~In the event~~ a qualified public depository is merged into, acquired by, or consolidated with a bank*, savings bank,* or savings association that is not a qualified public depository:~~,~~

(a) The resulting institution shall *automatically* become a qualified public depository *subject to the requirements of the public deposits program.*~~, and~~

(b) The contingent liability of the former institution shall be a liability of the resulting institution.

(c) The public deposits and associated collateral of the former institution shall be public deposits and collateral of the resulting institution.

(d) The resulting institution shall, within *90 calendar* ~~30~~ days after the effective date of the merger, acquisition, or consolidation, *deliver to the Treasurer:* ~~the resulting institution shall~~

1. Documentation ~~execute~~ in its ~~own~~ name ~~and deliver to the Treasurer the contingent liability agreement required by s. 280.07, and all information and documentation~~ as ~~may be~~ required for participation in the public deposits program*; or*~~.~~

2. Written notice of intent to withdraw ~~If the resulting institution chooses not to remain a qualified public depository, or does not meet the requirements to become a qualified public depository, such institution shall comply with the procedures for withdrawal~~ from the program as provided in s. 280.11 *and a proposed effective date of withdrawal which shall be within 180 days after the effective date of the acquisition, merger, or consolidation of the former institution*.

(e) If the resulting institution does not meet qualifications to become a qualified public depository or does not submit required documentation within 90 calendar days after the effective date of the merger, acquisition, or consolidation, the Treasurer shall initiate mandatory withdrawal actions as provided in s. 280.11 and shall set an effective date of withdrawal that is within 180 days after the effective date of the acquisition, merger, or consolidation of the former institution.

(2) *When* a qualified public depository ~~which sells or~~ disposes of *any of* its *Florida public deposits or collateral securing such deposits in a manner not covered by subsection (1), the qualified public depository originally holding the public deposits* ~~branches to an institution that is not a qualified public depository, and such branches continue to hold public deposits,~~ shall be responsible for*:*

(a) Ensuring the institution receiving such public deposits becomes a qualified public depository and meets collateral requirements with the Treasurer as part of the transaction.

(b) Notifying the Treasurer within 30 calendar days after the final approval by the appropriate regulator.

A qualified public depository that fails to meet such responsibilities shall ~~and~~ continue to collateralize and report such public deposits until the *receiving* ~~purchasing~~ institution becomes a qualified public depository *and collateralizes the deposits* or the deposits are returned to the *governmental* ~~public~~ unit. ~~The qualified public depository shall notify the Treasurer of any acquisition of its branches on its next monthly report after the final approval by the appropriate regulator if the acquisition includes public deposits.~~

(3) The qualified public depository shall notify the Treasurer of any acquisition or merger *within 30 calendar days* ~~on its next monthly report~~ after the final approval of the acquisition or merger by its appropriate regulator.

(4) Collateral subject to a *collateral* ~~depository pledge~~ agreement may not be released by the Treasurer or the custodian until the assumed liability is evidenced by the deposit of collateral pursuant to the *collateral* ~~depository pledge~~ agreement of the successor entity. The reporting requirement and pledge of collateral will remain in force until the Treasurer determines that the liability no longer exists. The surviving or new qualified public depository shall be responsible and liable for all of the liabilities and obligations of each qualified public depository merged with or acquired by it.

(5) Each qualified public depository shall report any change of name and address to the Treasurer on a form provided by the Treasurer regardless of whether the name change is a result of an acquisition*,* ~~or~~ merger*, or consolidation*. Notification of such change must be made *within 30 calendar days after the effective date of the change* ~~on its next monthly report~~.

(6) The Treasurer shall adopt rules establishing procedures for mergers, acquisitions, consolidations, and changes in name and address, providing forms, and clarifying terms.

Section 13. Subsection (1) of section 280.11, Florida Statutes, is amended to read:

280.11 Withdrawal from public deposits program; return of pledged collateral.—

(1) A qualified public depository may withdraw from the public deposits program by giving written notice to the Treasurer. The contingent liability, required collateral, and reporting requirements of the depository withdrawing from the program shall continue for a period of 12 months after the effective date of the withdrawal, except that the filing of reports may no longer be required when the average monthly balance of public deposits is equal to zero. Notice of withdrawal shall be mailed or delivered in sufficient time to be received by the Treasurer at least 30 days before the effective date of withdrawal. The Treasurer shall timely publish the withdrawal notice in the Florida Administrative Weekly which shall constitute notice to all depositors. The withdrawing depository shall not receive or retain public deposits after the effective date of the withdrawal until such time as it again becomes a qualified

public depository. The Treasurer shall, upon request, return to the depository that portion of the collateral pledged that is in excess of the required collateral as reported on the current public depository monthly report. Losses of interest or other accumulations, if any, because of withdrawal under this section shall be assessed and paid as provided in s. 280.09~~(2)~~.

Section 14. Section 280.13, Florida Statutes, is amended to read:

280.13 *Eligible* collateral ~~eligible for pledge by banks and savings associations.—~~

(1) Securities eligible to be pledged as collateral by banks and savings associations shall be limited to:

(a) Direct obligations of the United States Government.

(b) Obligations of any federal agency that are fully guaranteed as to payment of principal and interest by the United States Government.

(c) Obligations of the following federal agencies:

1. Farm credit banks.

2. Federal land banks.

3. The Federal Home Loan Bank and its district banks.

4. Federal intermediate credit banks.

5. The Federal Home Loan Mortgage Corporation.

6. The Federal National Mortgage Association.

7. Obligations guaranteed by the Government National Mortgage Association.

(d) General obligations of a state of the United States, or of Puerto Rico, or of a political subdivision or municipality thereof.

(e) Obligations issued by the Florida State Board of Education under authority of the State Constitution or applicable statutes.

(f) Tax anticipation certificates or warrants of counties or municipalities having maturities not exceeding 1 year.

(g) Public housing authority obligations.

(h) Revenue bonds or certificates of a state of the United States or of a political subdivision or municipality thereof.

(i) Corporate bonds of any corporation that is not an affiliate or subsidiary of the qualified public depository.

(2) In addition to the securities listed in subsection (1), the Treasurer may, in his or her discretion, allow the pledge of the following types of securities. The Treasurer shall, by rule, define any restrictions, specific criteria, or circumstances for which these instruments will be acceptable.

(a) Securities of, or other interests in, any open-end management investment company registered under the Investment Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended from time to time, provided the portfolio of such investment company is limited to direct obligations of the United States Government and to repurchase agreements fully collateralized by such direct obligations of the United States Government and provided such investment company takes delivery of such collateral either directly or through an authorized custodian.

(b) Collateralized Mortgage Obligations.

(c) Real Estate Mortgage Investment Conduits.

(3) Except as to obligations issued by or with respect to which payment of interest and principal is guaranteed by the United States Government or obligations of federal agencies listed in subsection (1), the debt obligations mentioned in this section shall be rated in one of the four highest classifications by an established, nationally recognized investment rating service.

(4) To be eligible as collateral under this section, all debt obligations shall be interest bearing or accruing.

(5) Letters of credit issued by a Federal Home Loan Bank are eligible as collateral under this section provided that:

(a) The letter of credit has been delivered to the Treasurer in the standard format approved by the Treasurer.

(b) The letter of credit meets required conditions of:

1. Being irrevocable.

2. Being clean and unconditional and containing a statement that it is not subject to any agreement, condition, or qualification outside of the letter of credit and providing that a beneficiary need only present the original letter of credit with any amendments and the demand form to promptly obtain funds, and that no other document need be presented.

3. Being issued, presentable, and payable at a Federal Home Loan Bank in U.S. dollars. Presentation may be made by the beneficiary submitting the original letter of credit, including any amendments, and the demand in writing, by overnight delivery.

4. Containing a statement that identifies and defines the Treasurer as beneficiary.

5. Containing an issue date and a date of expiration.

6. Containing a term of at least 1 year and an evergreen clause that provides at least 60 days written notice to the beneficiary prior to expiration date for nonrenewal.

7. Containing a statement that it is subject to and governed by the laws of the State of Florida and that, in the event of any conflict with other laws, the laws of the State of Florida will control.

8. Containing a statement that the letter of credit is an obligation of the Federal Home Loan Bank and is in no way contingent upon reimbursement.

9. Any other provision found necessary under the Uniform Commercial Code—Letters of Credit.

(c) Obligations issued by the Federal Home Loan Bank remain triple A rated by a nationally recognized source.

(d) The Federal Home Loan Bank issuing the letter of credit agrees to provide confirmation upon request from the Treasurer. Such confirmation shall be provided within 15 working days after the request, in a format prescribed by the Treasurer, and shall require no identification other than the qualified public depository's name and location.

(e) The qualified public depository completes an agreement covering the use of the letters of credit as eligible collateral, as described in s. 280.041(5).

(f) The qualified public depository, if notified by the Treasurer, shall not be allowed to use letters of credit if the Federal Home Loan Bank fails to pay a draw request as provided for in the letters of credit or fails to properly complete a confirmation of such letters of credit.

(6) Cash held by the Treasurer in the Treasury Cash Deposit Trust Fund or by a custodian is eligible as collateral under this section. Interest earned on cash deposits that is in excess of required collateral shall be paid to the qualified public depository upon request.

(7)~~(5)~~ The Treasurer may disapprove any security *or letter of credit* that does not meet the requirements of this section or any rule adopted pursuant to this section or any security for which no current market price can be obtained from a nationally recognized source deemed acceptable to the Treasurer *or cannot be converted to cash*.

(8) The Treasurer shall adopt rules defining restrictions and special requirements for eligible collateral and clarifying terms.

Section 15. Paragraph (a) of subsection (1), paragraph (b) of subsection (2), and subsection (3) of section 280.16, Florida Statutes, are amended to read:

280.16 Requirements of qualified public depositories; confidentiality.—

(1) In addition to any other requirements specified in this chapter, qualified public depositories shall:

(a) ~~Beginning July 1, 1998,~~ Take the following actions for each public deposit account:

1. Identify the account as a "Florida public deposit" on the deposit account record with the name of the public depositor or provide a unique code for the account for such designation.

2. When the form prescribed by the Treasurer for acknowledgment of receipt of each public deposit account is presented to the qualified public depository by the public depositor opening an account, the qualified public depository shall execute and return the completed form to the public depositor.

3. When the acknowledgment of receipt form is presented to the qualified public depository by the public depositor due to a change of account name, account number, or qualified public depository name on an existing public deposit account, the qualified public depository shall execute and return the completed form to the public depositor within 45 calendar days after such presentation.

4. When the acknowledgment of receipt form is presented to the qualified public depository by the public depositor on an account existing before July 1, 1998, the qualified public depository shall execute and return the completed form to the public depositor within 45 calendar days after such presentation.

(2) The following forms must be made under oath:

(b) *Collateral control agreements and letter of credit agreements* ~~The public depository pledge agreement~~.

(3) Any information contained in a report of a qualified public depository required under this chapter or any rule adopted under this chapter, together with any information required of a financial institution that is not a qualified public depository, shall, if made confidential by any law of the United States or of this state, be considered confidential and exempt from the provisions of s. 119.07(1) and not subject to dissemination to anyone other than the Treasurer under the provisions of this chapter; however, it is the responsibility of each qualified public depository and each financial institution from which information is required to inform the Treasurer of information that is confidential and the law providing for the confidentiality of that information, and the Treasurer does not have a duty to inquire into whether information is confidential.

Section 16. Except as otherwise provided herein, this act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, line 14, through page 2, line 10,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: custodian; authorizing a custodian to withdraw as custodian under certain circumstances; authorizing use of certain letters of credit; providing requirements; revising triggering events for certain actions by the Treasurer; revising powers and duties of the Treasurer; clarifying grounds for suspension or disqualification of a qualified public depository; revising conditions for imposition of an administrative penalty; clarifying criteria for the Treasurer to issue certain orders; providing for contingent liability; clarifying procedures for payment of losses; providing for deposit of draws on letters of credit into the Public Deposits Trust Fund; revising procedures and requirements relating to effect of mergers, acquisitions, or consolidations; providing conditions for eligibility of certain letters of credit as collateral; clarifying requirements of qualified public depositories; creating s. 280.071, F.S.; creating the Qualified Public Depository Oversight Board; providing purposes; requiring the Treasurer to initiate selection of board members; providing for selection of board members by certain qualified public depositories; providing qualifications; providing powers and duties of the board; authorizing the Treasurer to adopt rules for certain purposes; providing effective dates.

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

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

HB 1465 was taken up. On motion by Rep. Wiles, the rules were waived and SB 676 was substituted for HB 1465. Under Rule 5.15, the House bill was laid on the table and—

SB 676—A bill to be entitled An act relating to sentencing; amending s. 775.082, F.S.; redefining the term "prison releasee reoffender" to include a defendant who commits certain felonies within a specified period after being released from a correctional institution outside the state or while escaped from a correctional institution outside the state; providing requirements for sentencing a defendant if the state attorney proves by a preponderance of the evidence that the defendant is a prison releasee reoffender; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1203 was taken up. On motion by Rep. Mealor, the rules were waived and CS for SB 1274 was substituted for HB 1203. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 1274—A bill to be entitled An act relating to motor vehicles; amending s. 322.09, F.S.; providing that a foster parent or a group-home representative who signs an application for a learner's driver's license for a minor who is in foster care is not, by reason of having signed the application, assuming any obligation or liability for any damages caused by the minor; creating s. 627.746, F.S.; prohibiting insurers that issue insurance policies for private passenger automobiles from charging an additional premium for a minor who operates his or her parent's vehicle, during the time that the minor has a learner's driver's license; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HJR 1451—A joint resolution proposing an amendment to Section 3 of Article VII of the State Constitution relating to exemption from ad valorem taxation of certain tangible personal property.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1469 was taken up. On motion by Rep. Rich, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed SB 1986 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By Senator Sanderson—

SB 1986—A bill to be entitled An act relating to group insurance for public officers, employees, and volunteers; amending s. 112.08, F.S.; prescribing procedure for a local governmental unit to replace health insurance when the contracting provider becomes financially impaired or fails or refuses to provide coverage; providing an effective date.

—was taken up, read the first time by title, and substituted for HB 1469. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Rich, the rules were waived and SB 1986 was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

Special Orders

Special Order Calendar

CS/HB 1701—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; expanding the exemption from public records requirements for identifying information relating to code enforcement officers to include additional information and to include such officers' spouses and children; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 137—A bill to be entitled An act relating to probate; amending s. 63.172, F.S.; providing for the right of inheritance with respect to adoption; amending s. 409.9101, F.S.; revising language with respect to recovery of payments made on behalf of certain Medicaid-eligible persons; amending s. 655.936, F.S., relating to the opening of a decedent's safe-deposit box; amending s. 731.005, F.S., relating to the Florida Probate Code; amending s. 731.011, F.S.; providing reference to the Florida Probate Rules with respect to the determination of substantive rights under the Florida Probate Code; amending s. 731.104, F.S.; revising language with respect to the verification of documents; amending s. 731.106, F.S., relating to the assets of nondomiciliaries; repealing s. 731.107, F.S., relating to adversary proceedings; amending s. 731.110, F.S.; revising language with respect to proceedings concerning caveat; repealing s. 731.111, F.S., relating to notice to creditors; amending s. 731.201, F.S.; revising general definitions with respect to the Florida Probate Code; amending s. 731.301, F.S.; revising language with respect to notice; amending s. 731.303, F.S., relating to representation; amending s. 732.101, F.S., relating to intestate estates; amending s. 732.102, F.S.; revising language with respect to the share of the spouse; increasing the monetary amount of certain shares; amending s. 732.103, F.S., relating to the share of certain heirs; amending s. 732.107, F.S.; clarifying provisions; revising a filing date; revising certain provisions regarding owner's representation; amending s. 732.1101, F.S.; providing that aliens shall have the same right of inheritance as citizens; amending s. 732.2025, F.S.; redefining the term "qualifying special needs trust" or "supplemental needs trust"; amending s. 732.2035, F.S.; redefining the term "decedent's ownership interest"; amending s. 732.2045, F.S.; adding an exclusion to the elective share for property that is part of the protected homestead; amending s. 732.2055, F.S.; redefining "value" for purposes of calculating the elective estate; amending s. 732.2075, F.S.; revising the formula for payment of the elective share; amending s. 732.2085, F.S.; adding a cross reference; amending s. 732.2095, F.S.; correcting a cross reference; modifying the formula for determining the fair market value of assets regarding the elective share; amending s. 732.2105, F.S.; revising the effect of an elective share election on other estate interests; amending s. 732.2125, F.S.; revising language with respect to the right of election; amending s. 732.2135, F.S.; revising language with respect to time of election, extensions, and withdrawal; amending s. 732.2145, F.S.; revising language with respect to the order of contribution; amending s. 732.2155, F.S.; revising language with respect to the effective date of certain trusts; amending s. 732.218, F.S.; revising language with respect to rebuttable presumptions; amending s. 732.219, F.S., relating to disposition upon death; amending s. 732.221, F.S.; revising language with respect to perfection of title of personal representative or beneficiary; amending s. 732.222, F.S., relating to the purchaser for value or lender; amending s. 732.223, F.S.; revising language with respect to perfection of title of surviving spouse; amending s. 732.302, F.S.; revising language with respect to pretermitted children; amending s. 732.401, F.S.; revising language with respect to descent of homestead; amending s. 732.4015, F.S.; revising language with respect to the definition of "owner" and "devise" concerning homestead; amending s. 732.402, F.S.; revising language with respect to exempt property; amending s. 732.403, F.S.; revising language with respect to family allowance; amending s. 732.501, F.S.; revising language with respect to who may make a will; amending s. 732.502, F.S.; revising language with respect to execution of wills; amending s. 732.503, F.S.; revising language with respect to self-proof of will; amending s. 732.505, F.S.; revising language with respect to revocation by writing; amending s. 732.507, F.S.; revising language with respect to effect of subsequent marriage, birth, or dissolution of marriage; amending s. 732.513, F.S.; revising language with respect to devises to trustees; amending s. 732.514, F.S., relating to vesting of devises; amending s. 732.515, F.S.; revising language with respect to separate writing identifying devises of tangible property; amending s. 732.6005, F.S., relating to rules of construction and intention; amending s. 732.601, F.S.; revising language with respect to the Simultaneous Death Law; amending s. 732.603, F.S.; revising language with respect to antilapse, deceased devises, and class gifts; amending s. 732.604, F.S., relating to the failure of a testamentary provision; amending s. 732.605, F.S., relating to change in securities, accessions, and nonademption; amending s. 732.606, F.S., relating to nonademption of specific devises in certain cases; amending s. 732.701, F.S.; providing for agreements concerning succession executed by a nonresident under certain circumstances; amending s. 732.702, F.S.; revising language with respect to waiver of spousal rights; amending s. 732.801, F.S.; revising language with respect to disclaimer of interests in property passing by will or intestate succession or under certain powers of appointment; amending s. 732.804, F.S.; providing for provisions relating to disposition of the body; amending s. 732.901, F.S., relating to production of wills; eliminating language with respect to willful failure to deposit the will; transferring, amending, and renumbering ss. 732.910, 732.911, 732.912, 732.913, 732.914, 732.915, 732.916, 732.917, 732.918, 732.9185, 732.919, 732.921, 732.9215, 732.92155, 732.9216, and 732.922, F.S.; correcting cross references; amending ss. 381.004 and 381.0041, F.S.; correcting cross references; amending s. 733.101, F.S., relating to the venue of probate proceedings; amending s. 733.103, F.S., relating to the effect of probate; amending s. 733.104, F.S.; revising language with respect to the suspension of the statute of limitations in favor of the personal representative; amending s. 733.105, F.S.; revising language with respect to the determination of beneficiaries; amending s. 733.106, F.S.; revising language with respect to costs and attorney fees; amending s. 733.107, F.S., relating to the burden of proof in contests; amending s. 733.109, F.S.; revising language with respect to the revocation of probate; amending s. 733.201, F.S., relating to proof of wills; amending s. 733.202, F.S.; providing that any interested person may petition for administration; repealing s. 733.203, F.S., relating to when notice is required; amending s. 733.204, F.S.; revising language with respect to the probate of a will written in a foreign language; amending s. 733.205, F.S., relating to the probate of a notarial will; amending s. 733.206, F.S., relating to the probate of a resident after foreign probate; amending s. 733.207, F.S.; revising requirements with respect to the establishment and probate of a lost or destroyed will; amending s. 733.208, F.S.; revising language with respect to the discovery of a later will; amending s. 733.209, F.S.; providing requirements with respect to the estates of missing persons; amending s. 733.212, F.S.; revising language with respect to the notice of administration and filing of objections; creating s. 733.2121, F.S.; providing for notice to creditors and the filing of claims; amending s. 733.2123, F.S., relating to adjudication before issuance of letters; amending s. 733.213, F.S.; providing that a will may not be construed until after it has been admitted to probate; amending s. 733.301, F.S.; revising language with respect to preference in the appointment of the personal representative; amending s. 733.302, F.S.; revising language with respect to who may be appointed personal representative; amending s. 733.305, F.S., relating to trust companies and other corporations and associations; amending s. 733.306, F.S.; revising language with respect to the effect of the appointment of a debtor; amending s. 733.307, F.S., relating to succession of administration; amending s. 733.308, F.S., relating to the administrator ad litem; amending s. 733.309, F.S., relating to the executor de son tort; creating s. 733.310, F.S.; providing for when a personal representative is not qualified; repealing s. 733.401, F.S., relating to the issuance of letters; amending s. 733.402, F.S.; revising language with respect to the bond of a fiduciary; amending s. 733.403, F.S.; revising language with respect to the amount of the bond; amending s. 733.404, F.S., relating to the liability of the surety; amending s. 733.405, F.S.; revising language with

respect to the release of surety; amending s. 733.406, F.S.; revising language with respect to bond premium allowable as an expense of administration; amending s. 733.501, F.S.; revising language with respect to curators; amending s. 733.502, F.S.; revising language with respect to the resignation of the personal representative; amending s. 733.503, F.S.; providing for the appointment of a successor upon the resignation of the personal representative; creating s. 733.5035, F.S.; providing for the surrender of assets after resignation; creating s. 733.5036, F.S.; providing for accounting and discharge following resignation; amending s. 733.504, F.S.; revising language with respect to the removal of the personal representative; amending s. 733.505, F.S.; providing that a petition for removal shall be filed in the court having jurisdiction of the administration; amending s. 733.506, F.S.; revising language with respect to proceedings for removal; creating s. 733.5061, F.S.; providing for the appointment of a successor upon removal of the personal representative; repealing s. 733.507, F.S., relating to administration following resignation or removal; amending s. 733.508, F.S.; providing for accounting and discharge upon removal; amending s. 733.509, F.S.; revising language with respect to surrender of assets upon removal; amending s. 733.601, F.S.; revising language with respect to time of accrual of duties and powers; amending s. 733.602, F.S., relating to the general duties of a personal representative; amending s. 733.603, F.S., relating to when a personal representative may proceed without court order; amending s. 733.604, F.S.; revising language with respect to inventory; repealing s. 733.605, F.S., relating to appraisers; creating s. 733.6065, F.S.; providing for the opening of a safe-deposit box; amending s. 733.607, F.S.; revising language with respect to the possession of the estate; amending s. 733.608, F.S.; revising language with respect to the general power of the personal representative; amending s. 733.609, F.S.; revising language with respect to improper exercise of power and the breech of fiduciary duty; amending s. 733.610, F.S., relating to the sale, encumbrance, or transaction involving a conflict of interest; amending s. 733.611, F.S.; revising language with respect to persons dealing with the personal representative; amending s. 733.612, F.S.; revising language with respect to transactions authorized for the personal representatives and exceptions thereto; amending s. 733.6121, F.S., relating to powers of the personal representative with respect to environmental or human health laws affecting property subject to administration; amending s. 733.613, F.S.; revising language with respect to the personal representatives' right to sell real property; amending s. 733.614, F.S., relating to the powers and duties of a successor personal representative; amending s. 733.615, F.S.; revising language with respect to joint personal representatives; amending s. 733.616, F.S.; revising language with respect to the powers of the surviving personal representatives; amending s. 733.617, F.S.; revising language with respect to compensation of the personal representative; amending s. 733.6171, F.S.; revising language with respect to compensation of the attorney for the personal representative; amending s. 733.6175, F.S.; revising language with respect to proceedings for review of employment of agents and compensation of personal representatives and employees of the estate; amending s. 733.619, F.S., relating to the individual liability of the personal representative; amending s. 733.701, F.S.; revising language with respect to notifying creditors; correcting cross references; amending s. 733.702, F.S.; revising language with respect to limitations on presentation of claims; amending s. 733.703, F.S.; revising language with respect to the form and manner of presenting a claim; amending s. 733.704, F.S., relating to amendment of claims; amending s. 733.705, F.S.; revising language with respect to payment of and objection to claims; amending s. 733.707, F.S.; revising language with respect to the order of payment of expenses and obligations; amending s. 733.708, F.S.; revising language with respect to compromise; amending s. 733.710, F.S., relating to claims against estates; amending s. 733.801, F.S.; providing that the personal representative shall pay as an expense of administration certain costs; amending s. 733.802, F.S.; revising language with respect to proceedings for compulsory payment of devises or distributive interest; amending s. 733.803, F.S., relating to encumbered property; amending s. 733.805, F.S.; revising language with respect to the order in which assets are appropriated; amending s. 733.806, F.S., relating to advancement; amending s. 733.808, F.S.; revising language with respect to death benefits and disposition of proceeds; amending s. 733.809, F.S., relating to right of retainer; amending s. 733.810, F.S.; revising language with respect to distribution in kind and valuation; amending s. 733.811, F.S.; revising language with respect to the right or title of distributee; amending s. 733.812, F.S.; providing for improper distribution or payment and liability of distributee; amending s. 733.813, F.S., relating to protection of the purchaser from the distributee; amending s. 733.814, F.S.; revising language with respect to partition for the purpose of distribution; amending s. 733.815, F.S.; providing for private contracts among certain interested persons; amending s. 733.816, F.S., relating to the distribution of unclaimed property held by the personal representative; amending s. 733.817, F.S.; revising language with respect to apportionment of estate taxes; amending s. 733.901, F.S.; providing requirements with respect to final discharge; amending s. 733.903, F.S.; revising language with respect to subsequent administration; amending s. 734.101, F.S., relating to the foreign personal representative; amending s. 734.102, F.S.; revising language with respect to ancillary administration; amending s. 734.1025, F.S.; revising language with respect to the nonresident decedent's testate estate with property not exceeding a certain value in this state; providing for the determination of claims; amending s. 734.104, F.S., relating to foreign wills; amending s. 734.201, F.S., relating to jurisdiction by act of a foreign personal representative; amending s. 734.202, F.S., relating to jurisdiction by act of decedent; repealing s. 735.101, F.S., relating to family administration and the nature of the proceedings; repealing s. 735.103, F.S., relating to petition for family administration; repealing s. 735.107, F.S., relating to family administration distribution; amending s. 735.201, F.S.; increasing a monetary amount with respect to summary administration; amending s. 735.203, F.S.; revising language with respect to the petition for summary administration; amending s. 735.206, F.S.; revising language with respect to summary administration distribution; amending s. 735.2063, F.S.; revising language with respect to notice to creditors; repealing s. 735.209, F.S., relating to joinder of heirs, devisees, or surviving spouse in summary administration; amending s. 735.301, F.S., relating to disposition without administration; amending s. 735.302, F.S.; revising language with respect to income tax refunds in certain circumstances; creating s. 737.208, F.S.; prohibiting distribution pending outcome of contest; providing exceptions; amending s. 737.3054, F.S.; revising language with respect to trustee's duty to pay expenses and obligations of grantor's estate; amending s. 737.306, F.S.; revising language with respect to personal liability of trustee; creating s. 737.3061, F.S.; providing for limitation on actions against certain trusts; amending s. 737.308, F.S.; revising language with respect to notice of trust; amending ss. 215.965, 660.46, and 737.111, F.S.; correcting cross references; directing the Division of Statutory Revision and Indexing to change the title of certain parts of the Probate Code; providing an effective date.

—was read the second time by title.

Representative(s) Goodlette offered the following:

(Amendment Bar Code: 073405)

Amendment 1—On page 37, line 9, through page 46, line 9 remove from the bill: all of said lines

and insert in lieu thereof:

Section 19. Effective October 1, 2001, subsection (8) of section 732.2025, Florida Statutes, is amended to read:

732.2025 Definitions.—As used in ss. 732.2025-732.2155, the term:

(8) "Qualifying special needs trust" or "supplemental needs trust" means a trust established for *a* ~~an ill or~~ disabled surviving spouse with court approval before or after a decedent's death ~~for such incapacitated surviving spouse~~, if, commencing on the decedent's death:

(a) The income and principal are distributable to or for the benefit of the spouse for life in the discretion of one or more trustees less than half of whom are ineligible family trustees. For purposes of this

paragraph, ineligible family trustees include the decedent's grandparents and any descendants of the decedent's grandparents who are not also descendants of the surviving spouse; and

(b) During the spouse's life, no person other than the spouse has the power to distribute income or principal to anyone other than the spouse.

~~(c)~~ The requirement for court approval ~~and the limitation on ineligible family trustees~~ shall not apply if the aggregate *value* of *all* ~~the trust~~ property ~~as of the applicable valuation date~~ in *all* ~~a~~ qualifying special needs *trusts for the spouse* ~~trust~~ is less than $100,000. *For purposes of this subsection, value is determined on the "applicable valuation date" as defined in s. 732.2095(1)(a).*

Section 20. Effective October 1, 2001, subsection (2) and paragraph (a) of subsection (5) of section 732.2035, Florida Statutes, are amended to read:

732.2035 Property entering into elective estate.—Except as provided in s. 732.2045, the elective estate consists of the sum of the values as determined under s. 732.2055 of the following property interests:

(2) The decedent's ownership interest in accounts or securities registered in "Pay On Death," "Transfer On Death," "In Trust For," or coownership with right of survivorship form. For this purpose, "decedent's ownership interest" means*, in the case of accounts or securities held in tenancy by the entirety, one-half of the value of the account or security, and in all other cases,* that portion of the accounts or securities which the decedent had, immediately before death, the right to withdraw or use without the duty to account to any person.

(5)(a) That portion of property, other than property described in subsection (3), subsection (4), or subsection (7), transferred by the decedent to the extent that at the time of the decedent's death:

1. The decedent possessed the right to, or in fact enjoyed the possession or use of, the income or principal of the property; or

2. The principal of the property could, in the discretion of any person other than the spouse of the decedent, be distributed or appointed to or for the benefit of the decedent.

In the application of this subsection, a right to payments *under a commercial or private* ~~from an~~ annuity*, an annuity trust, a unitrust,* or ~~under~~ a similar ~~contractual~~ arrangement shall be treated as a right to that portion of the income of the property necessary to equal the annuity*, unitrust,* or other ~~contractual~~ payment.

Section 21. Effective October 1, 2001, subsection (1) of section 732.2045, Florida Statutes, is amended to read:

732.2045 Exclusions and overlapping application.—

(1) EXCLUSIONS.—Section 732.2035 does not apply to:

(a) Except as provided in s. 732.2155(4), any transfer of property by the decedent to the extent the transfer is irrevocable before the effective date of this subsection or after that date but before the date of the decedent's marriage to the surviving spouse.

(b) Any transfer of property by the decedent to the extent the decedent received adequate consideration in money or money's worth for the transfer.

(c) Any transfer of property by the decedent made with the written consent of the decedent's spouse. For this purpose, spousal consent to split-gift treatment under the United States gift tax laws does not constitute written consent to the transfer by the decedent.

(d) The proceeds of any policy of insurance on the decedent's life in excess of the net cash surrender value of the policy whether payable to the decedent's estate, a trust, or in any other manner.

(e) Any policy of insurance on the decedent's life maintained pursuant to a court order.

(f) The decedent's one-half of the property to which ss. 732.216-732.228 apply and real property that is community property under the laws of the jurisdiction where it is located.

(g) Property held in a qualifying special needs trust on the date of the decedent's death.

(h) Property included in the gross estate of the decedent for federal estate tax purposes solely because the decedent possessed a general power of appointment.

(i) Property which constitutes the protected homestead of the decedent whether held by the decedent or by a trust at the decedent's death.

Section 22. Effective October 1, 2001, paragraph (a) of subsection (5) of section 732.2055, Florida Statutes, is amended to read:

732.2055 Valuation of the elective estate.—For purposes of s. 732.2035, "value" means:

(5) In the case of all other property, the fair market value of the property on the date of the decedent's death, computed after deducting from the total value of the property:

(a) All claims~~, other than claims for funeral expenses,~~ paid or payable from the elective estate; and

Section 23. Effective October 1, 2001, subsection (2) of section 732.2075, Florida Statutes, is amended to read:

732.2075 Sources from which elective share payable; abatement.—

(2) If, after the application of subsection (1), the elective share is not fully satisfied, the unsatisfied balance shall be apportioned among the direct recipients of the remaining elective estate in the following order of priority:

(a) Class 1.—The decedent's probate estate and revocable trusts.

(b) Class 2.—Recipients of property interests*, other than protected charitable interests,* included in the elective estate under s. 732.2035(2), (3), or (6) and, to the extent the decedent had at the time of death the power to designate the recipient of the property, property interests*, other than protected charitable interests,* included under s. 732.2035(5) and (7).

(c) Class 3.—Recipients of all other property interests*, other than protected charitable interests,* included in the elective estate ~~except interests for which a charitable deduction with respect to the transfer of the property was allowed or allowable to the decedent or the decedent's spouse under the United States gift tax laws~~.

(d) Class 4.—Recipients of protected charitable lead interests, but only to the extent and at such times that contribution is permitted without disqualifying the charitable interest in that property for a deduction under the United States gift tax laws.

For purposes of this subsection, a protected charitable interest is any interest for which a charitable deduction with respect to the transfer of the property was allowed or allowable to the decedent or the decedent's spouse under the United States gift tax laws. A protected charitable lead interest is a protected charitable interest where one or more deductible interests in charity precede some other nondeductible interest or interests in the property.

Section 24. Effective October 1, 2001, paragraph (a) of subsection (1) and paragraph (a) of subsection (3) of section 732.2085, Florida Statutes, are amended to read:

732.2085 Liability of direct recipients and beneficiaries.—

(1) Only direct recipients of property included in the elective estate and the beneficiaries of the decedent's probate estate or of any trust that is a direct recipient, are liable to contribute toward satisfaction of the elective share.

(a) Within each of the classes described in s. 732.2075(2)(b)*,* ~~and~~ (c)*, and (d),* each direct recipient is liable in an amount equal to the value,

as determined under s. 732.2055, of the proportional part of the liability for all members of the class.

(3) If a person pays the value of the property on the date of a sale or exchange or contributes all of the property received, as provided in paragraph (2)(b):

(a) No further contribution toward satisfaction of the elective share shall be required with respect to *that* ~~such~~ property.

Section 25. Effective October 1, 2001, paragraph (a) of subsection (1) and paragraph (d) of subsection (2) of section 732.2095, Florida Statutes, are amended to read:

732.2095 Valuation of property used to satisfy elective share.—

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

(a) "Applicable valuation date" means:

1. In the case of transfers in satisfaction of the elective share, the date of the decedent's death.

2. In the case of property held in a qualifying special needs trust on the date of the decedent's death, the date of the decedent's death.

3. In the case of other property irrevocably transferred to or for the benefit of the surviving spouse during the decedent's life, the date of the transfer.

4. In the case of property distributed to the surviving spouse by the personal representative, the date of distribution.

5. Except as provided in subparagraphs 1., 2., and 3., in the case of property passing in trust for the surviving spouse, the date or dates the trust is funded in satisfaction of the elective share.

6. In the case of property described in s. 732.2035*(2) or* (3) ~~or (4)~~, the date of the decedent's death.

7. In the case of proceeds of any policy of insurance payable to the surviving spouse, the date of the decedent's death.

8. In the case of amounts payable to the surviving spouse under any plan or arrangement described in s. 732.2035(7), the date of the decedent's death.

9. In all other cases, the date of the decedent's death or the date the surviving spouse first comes into possession of the property, whichever occurs later.

(2) Except as provided in this subsection, the value of property for purposes of s. 732.2075 is the fair market value of the property on the applicable valuation date.

(d) If the surviving spouse has an interest in a trust that does not meet the requirements of *either* an elective share trust *or a qualifying special needs trust*, the value of the spouse's interest is the transfer tax value of the interest on the applicable valuation date; however, the aggregate value of all of the spouse's interests in the trust shall not exceed one-half of the value of the trust principal on the applicable valuation date.

Section 26. Effective October 1, 2001, section 732.2105, Florida Statutes, is amended to read:

732.2105 Effect of election on other interests.—

~~(1)~~ The elective share shall be in addition to homestead, exempt property, and allowances as provided in part IV.

~~(2) If an election is filed, the balance of the elective estate, after the application of s. 732.2145(1), shall be administered as though the surviving spouse had predeceased the decedent.~~

Section 27. Effective October 1, 2001, subsection (2) of section 732.2125, Florida Statutes, is amended to read:

732.2125 Right of election; by whom exercisable.—The right of election may be exercised:

(2) *With approval of the court having jurisdiction of the probate proceeding* by an attorney in fact or a guardian of the property of the surviving spouse~~, with approval of the court having jurisdiction of the probate proceeding~~. The court shall determine the election as the best interests of the surviving spouse, during the spouse's probable lifetime, require.

Section 28. Effective October 1, 2001, section 732.2135, Florida Statutes, is amended to read:

732.2135 Time of election; extensions; withdrawal.—

(1) Except as provided in subsection (2), the election must be filed within the earlier of 6 months of the date of *service of a copy of* the ~~first publication of~~ notice of administration *on the surviving spouse, or an attorney in fact or guardian of the property of the surviving spouse,* or 2 years after the date of the decedent's death.

(2) Within the period provided in subsection (1), the surviving spouse or an attorney in fact or guardian of the property of the surviving spouse may petition the court for an extension of time for making an election. ~~After notice and hearing, the court~~ For good cause shown *the court* may extend the time for election. If the court grants the petition for an extension, the election must be filed within the time allowed by the extension.

(3) The surviving spouse or an attorney in fact, guardian of the property, or personal representative of the surviving spouse may withdraw an election at any time within 8 months of the decedent's death and before the court's order of contribution. If an election is withdrawn, the court may assess attorney's fees and costs against the surviving spouse or the *surviving* spouse's estate.

(4) A petition for an extension of the time for making the election or for approval to make the election shall toll the time for making the election.

Section 29. Effective October 1, 2001, subsections (1) and (4) of section 732.2145, Florida Statutes, are amended to read:

732.2145 Order of contribution; personal representative's duty to collect contribution.—

(1) The court shall determine the elective share and ~~shall order~~ contribution. ~~All~~ Contributions *shall* ~~are to~~ bear interest at the statutory rate ~~provided in s. 55.03(1)~~ beginning 90 days *after* ~~from~~ the ~~date of the~~ order *of contribution*. The order ~~of contribution~~ is prima facie correct in proceedings in any court or jurisdiction.

(4) Nothing in this section limits the independent right of the surviving spouse to collect the elective share as provided in the order of contribution, and that right is hereby conferred. If the surviving spouse brings an action to enforce *the* ~~an~~ order ~~of contribution~~, the judgment shall include the surviving spouse's costs and reasonable attorney's fees.

Section 30. Effective October 1, 2001, subsection (4) of section 732.2155, Florida Statutes, is amended to read:

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

Representative(s) Goodlette offered the following:

(Amendment Bar Code: 685411)

Amendment 2—On page 37, line 9, through page 46, line 18 remove from the bill: all of said lines

and insert in lieu thereof:

Section 19. Effective October 1, 2001, subsection (8) of section 732.2025, Florida Statutes, is amended to read:

732.2025 Definitions.—As used in ss. 732.2025-732.2155, the term:

(8) "Qualifying special needs trust" or "supplemental needs trust" means a trust established for *a* ~~an ill or~~ disabled surviving spouse with court approval before or after a decedent's death ~~for such incapacitated surviving spouse~~, if, commencing on the decedent's death:

(a) The income and principal are distributable to or for the benefit of the spouse for life in the discretion of one or more trustees less than half of whom are ineligible family trustees. For purposes of this paragraph, ineligible family trustees include the decedent's grandparents and any descendants of the decedent's grandparents who are not also descendants of the surviving spouse; and

(b) During the spouse's life, no person other than the spouse has the power to distribute income or principal to anyone other than the spouse.

~~(c)~~ The requirement for court approval ~~and the limitation on ineligible family trustees~~ shall not apply if the aggregate *value* of *all* ~~the trust~~ property ~~as of the applicable valuation date~~ in *all* ~~a~~ qualifying special needs *trusts for the spouse* ~~trust~~ is less than $100,000. *For purposes of this subsection, value is determined on the "applicable valuation date" as defined in s. 732.2095(1)(a).*

Section 20. Effective October 1, 2001, subsection (2) and paragraph (a) of subsection (5) of section 732.2035, Florida Statutes, are amended to read:

732.2035 Property entering into elective estate.—Except as provided in s. 732.2045, the elective estate consists of the sum of the values as determined under s. 732.2055 of the following property interests:

(2) The decedent's ownership interest in accounts or securities registered in "Pay On Death," "Transfer On Death," "In Trust For," or coownership with right of survivorship form. For this purpose, "decedent's ownership interest" means*, in the case of accounts or securities held in tenancy by the entirety, one-half of the value of the account or security, and in all other cases,* that portion of the accounts or securities which the decedent had, immediately before death, the right to withdraw or use without the duty to account to any person.

(5)(a) That portion of property, other than property described in subsection (3), subsection (4), or subsection (7), transferred by the decedent to the extent that at the time of the decedent's death:

1. The decedent possessed the right to, or in fact enjoyed the possession or use of, the income or principal of the property; or

2. The principal of the property could, in the discretion of any person other than the spouse of the decedent, be distributed or appointed to or for the benefit of the decedent.

In the application of this subsection, a right to payments *under a commercial or private* ~~from an~~ annuity*, an annuity trust, a unitrust,* or ~~under~~ a similar ~~contractual~~ arrangement shall be treated as a right to that portion of the income of the property necessary to equal the annuity*, unitrust,* or other ~~contractual~~ payment.

Section 21. Effective October 1, 2001, subsection (1) of section 732.2045, Florida Statutes, is amended to read:

732.2045 Exclusions and overlapping application.—

(1) EXCLUSIONS.—Section 732.2035 does not apply to:

(a) Except as provided in s. 732.2155(4), any transfer of property by the decedent to the extent the transfer is irrevocable before the effective date of this subsection or after that date but before the date of the decedent's marriage to the surviving spouse.

(b) Any transfer of property by the decedent to the extent the decedent received adequate consideration in money or money's worth for the transfer.

(c) Any transfer of property by the decedent made with the written consent of the decedent's spouse. For this purpose, spousal consent to split-gift treatment under the United States gift tax laws does not constitute written consent to the transfer by the decedent.

(d) The proceeds of any policy of insurance on the decedent's life in excess of the net cash surrender value of the policy whether payable to the decedent's estate, a trust, or in any other manner.

(e) Any policy of insurance on the decedent's life maintained pursuant to a court order.

(f) The decedent's one-half of the property to which ss. 732.216-732.228 apply and real property that is community property under the laws of the jurisdiction where it is located.

(g) Property held in a qualifying special needs trust on the date of the decedent's death.

(h) Property included in the gross estate of the decedent for federal estate tax purposes solely because the decedent possessed a general power of appointment.

(i) Property which constitutes the protected homestead of the decedent whether held by the decedent or by a trust at the decedent's death.

Section 22. Effective October 1, 2001, paragraph (a) of subsection (5) of section 732.2055, Florida Statutes, is amended to read:

732.2055 Valuation of the elective estate.—For purposes of s. 732.2035, "value" means:

(5) In the case of all other property, the fair market value of the property on the date of the decedent's death, computed after deducting from the total value of the property:

(a) All claims~~, other than claims for funeral expenses,~~ paid or payable from the elective estate; and

Section 23. Effective October 1, 2001, subsection (2) of section 732.2075, Florida Statutes, is amended to read:

732.2075 Sources from which elective share payable; abatement.—

(2) If, after the application of subsection (1), the elective share is not fully satisfied, the unsatisfied balance shall be apportioned among the direct recipients of the remaining elective estate in the following order of priority:

(a) Class 1.—The decedent's probate estate and revocable trusts.

(b) Class 2.—Recipients of property interests*, other than protected charitable interests,* included in the elective estate under s. 732.2035(2), (3), or (6) and, to the extent the decedent had at the time of death the power to designate the recipient of the property, property interests*, other than protected charitable interests,* included under s. 732.2035(5) and (7).

(c) Class 3.—Recipients of all other property interests*, other than protected charitable interests,* included in the elective estate ~~except interests for which a charitable deduction with respect to the transfer of the property was allowed or allowable to the decedent or the decedent's spouse under the United States gift tax laws~~.

(d) Class 4.—Recipients of protected charitable lead interests, but only to the extent and at such times that contribution is permitted without disqualifying the charitable interest in that property for a deduction under the United States gift tax laws.

For purposes of this subsection, a protected charitable interest is any interest for which a charitable deduction with respect to the transfer of the property was allowed or allowable to the decedent or the decedent's spouse under the United States gift tax laws. A protected charitable lead interest is a protected charitable interest where one or more deductible interests in charity precede some other nondeductible interest or interests in the property.

Section 24. Effective October 1, 2001, paragraph (a) of subsection (1) and paragraph (a) of subsection (3) of section 732.2085, Florida Statutes, are amended to read:

732.2085 Liability of direct recipients and beneficiaries.—

(1) Only direct recipients of property included in the elective estate and the beneficiaries of the decedent's probate estate or of any trust that is a direct recipient, are liable to contribute toward satisfaction of the elective share.

(a) Within each of the classes described in s. 732.2075(2)(b), ~~and~~ (c), *and (d),* each direct recipient is liable in an amount equal to the value, as determined under s. 732.2055, of the proportional part of the liability for all members of the class.

(3) If a person pays the value of the property on the date of a sale or exchange or contributes all of the property received, as provided in paragraph (2)(b):

(a) No further contribution toward satisfaction of the elective share shall be required with respect to *that* ~~such~~ property.

Section 25. Effective October 1, 2001, paragraph (a) of subsection (1) and paragraph (d) of subsection (2) of section 732.2095, Florida Statutes, are amended to read:

732.2095 Valuation of property used to satisfy elective share.—

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

(a) "Applicable valuation date" means:

1. In the case of transfers in satisfaction of the elective share, the date of the decedent's death.

2. In the case of property held in a qualifying special needs trust on the date of the decedent's death, the date of the decedent's death.

3. In the case of other property irrevocably transferred to or for the benefit of the surviving spouse during the decedent's life, the date of the transfer.

4. In the case of property distributed to the surviving spouse by the personal representative, the date of distribution.

5. Except as provided in subparagraphs 1., 2., and 3., in the case of property passing in trust for the surviving spouse, the date or dates the trust is funded in satisfaction of the elective share.

6. In the case of property described in s. 732.2035*(2) or* (3) ~~or (4)~~, the date of the decedent's death.

7. In the case of proceeds of any policy of insurance payable to the surviving spouse, the date of the decedent's death.

8. In the case of amounts payable to the surviving spouse under any plan or arrangement described in s. 732.2035(7), the date of the decedent's death.

9. In all other cases, the date of the decedent's death or the date the surviving spouse first comes into possession of the property, whichever occurs later.

(2) Except as provided in this subsection, the value of property for purposes of s. 732.2075 is the fair market value of the property on the applicable valuation date.

(d) If the surviving spouse has an interest in a trust that does not meet the requirements of *either* an elective share trust *or a qualifying special needs trust*, the value of the spouse's interest is the transfer tax value of the interest on the applicable valuation date; however, the aggregate value of all of the spouse's interests in the trust shall not exceed one-half of the value of the trust principal on the applicable valuation date.

Section 26. Effective October 1, 2001, section 732.2105, Florida Statutes, is amended to read:

732.2105 Effect of election on other interests.—

~~(1)~~ The elective share shall be in addition to homestead, exempt property, and allowances as provided in part IV.

~~(2) If an election is filed, the balance of the elective estate, after the application of s. 732.2145(1), shall be administered as though the surviving spouse had predeceased the decedent.~~

Section 27. Effective October 1, 2001, subsection (2) of section 732.2125, Florida Statutes, is amended to read:

732.2125 Right of election; by whom exercisable.—The right of election may be exercised:

(2) *With approval of the court having jurisdiction of the probate proceeding* by an attorney in fact or a guardian of the property of the surviving spouse~~, with approval of the court having jurisdiction of the probate proceeding~~. The court shall determine the election as the best interests of the surviving spouse, during the spouse's probable lifetime, require.

Section 28. Effective October 1, 2001, section 732.2135, Florida Statutes, is amended to read:

732.2135 Time of election; extensions; withdrawal.—

(1) Except as provided in subsection (2), the election must be filed within the earlier of 6 months of the date of *service of a copy of* the ~~first publication of~~ notice of administration *on the surviving spouse, or an attorney in fact or guardian of the property of the surviving spouse,* or 2 years after the date of the decedent's death.

(2) Within the period provided in subsection (1), the surviving spouse or an attorney in fact or guardian of the property of the surviving spouse may petition the court for an extension of time for making an election. ~~After notice and hearing, the court~~ For good cause shown *the court* may extend the time for election. If the court grants the petition for an extension, the election must be filed within the time allowed by the extension.

(3) The surviving spouse or an attorney in fact, guardian of the property, or personal representative of the surviving spouse may withdraw an election at any time within 8 months of the decedent's death and before the court's order of contribution. If an election is withdrawn, the court may assess attorney's fees and costs against the surviving spouse or the *surviving* spouse's estate.

(4) A petition for an extension of the time for making the election or for approval to make the election shall toll the time for making the election.

Section 29. Effective October 1, 2001, subsections (1) and (4) of section 732.2145, Florida Statutes, are amended to read:

732.2145 Order of contribution; personal representative's duty to collect contribution.—

(1) The court shall determine the elective share and ~~shall order~~ contribution. ~~All~~ Contributions *shall* ~~are to~~ bear interest at the statutory rate ~~provided in s. 55.03(1)~~ beginning 90 days *after* ~~from~~ the ~~date of the~~ order *of contribution*. The order ~~of contribution~~ is prima facie correct in proceedings in any court or jurisdiction.

(4) Nothing in this section limits the independent right of the surviving spouse to collect the elective share as provided in the order of contribution, and that right is hereby conferred. If the surviving spouse brings an action to enforce *the* ~~an~~ order ~~of contribution~~, the judgment shall include the surviving spouse's costs and reasonable attorney's fees.

Section 30. Effective October 1, 2001, subsection (4) of section 732.2155, Florida Statutes, is amended and subsection (6) of section 732.2155, Florida Statutes, is created to read:

732.2155 Effective date; effect of prior waivers; transition rules.

(4) Notwithstanding anything in s. 732.2045(1)(a) to the contrary, any trust created by the decedent before the effective date of *ss. 732.201-732.2145* ~~this section~~ that meets the requirements of an elective share trust is treated as if the decedent created the trust after the effective date of *these sections* ~~this subsection~~ and in satisfaction of the elective share.

(6) Sections 732.201-732.2155 do not affect any interest in property held, as of the decedent's death, in a trust, whether revocable or irrevocable, if:

(a) the property was an asset of the trust at all times between October 1, 1999 and the date of the decedent's death;

(b) the decedent was not married to the decedent's surviving spouse when the property was transferred to the trust; and

(c) the property was a nonmarital asset as defined in s. 61.075 immediately prior to the decedent's death.

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

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

THE SPEAKER IN THE CHAIR

CS/HB 1189—A bill to be entitled An act relating to brownfield redevelopment economic incentives; amending s. 376.84, F.S.; providing definitions; providing that a county that constructs, renovates, or expands a significant new facility on a qualifying brownfield site is entitled to a sales tax increment rebate if the facility is leased to, licensed to, or operated by a private entity for the operation of a professional sports franchise; providing requirements with respect thereto; providing that, if the franchise is relocated or sold, a portion of the proceeds of the sale shall be remitted to the state; requiring such county to submit certain information to the Department of Revenue; providing for certification of the county by the department; providing for rules; providing for use of the rebate funds; providing requirements with respect to certain excess funds; providing for computation of the amount of the rebate; requiring repayment of rebate proceeds to the state if the county sells or otherwise conveys the facility or the real property on which it is located to a private entity; providing conditions under which eligibility for the rebate terminates; amending s. 212.20, F.S.; providing for distribution of the sales tax increment rebate to such counties; creating s. 186.5053, F.S.; authorizing the South Florida Regional Planning Council to undertake certain responsibilities and activities; providing effective dates.

—was read the second time by title.

Under Rule 11.10, Rep. Kosmas moved to temporarily postpone further consideration of CS/HB 1189, which was not agreed to. The vote was:

Session Vote Sequence: 208

Yeas—40

Alexander	Carassas	Jennings	Negron
Allen	Cusack	Joyner	Pickens
Argenziano	Diaz de la Portilla	Kallinger	Rich
Ausley	Farkas	Kosmas	Richardson
Baker	Fields	Lee	Romeo
Bendross-Mindingall	Frankel	Lerner	Slosberg
Betancourt	Gannon	Machek	Sobel
Brutus	Gibson	McGriff	Wallace
Bucher	Harrington	Meadows	Weissman
Bullard	Holloway	Melvin	Wishner

Nays—64

The Chair	Bennett	Davis	Goodlette
Andrews	Benson	Detert	Gottlieb
Arza	Berfield	Diaz-Balart	Green
Attkisson	Bilirakis	Dockery	Greenstein
Atwater	Bowen	Fasano	Haridopolos
Ball	Brummer	Fiorentino	Harper
Barreiro	Byrd	Flanagan	Harrell
Baxley	Cantens	Garcia	Henriquez
Bean	Clarke	Gardiner	Heyman
Johnson	Lacasa	Miller	Seiler
Jordan	Lynn	Murman	Simmons
Kendrick	Mack	Paul	Siplin
Kilmer	Mahon	Ritter	Smith
Kottkamp	Mayfield	Ross	Sorensen
Kravitz	Maygarden	Rubio	Stansel
Kyle	Mealor	Ryan	Waters

Motion

Rep. Rubio moved the previous question on the bill, which was agreed to.

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

HB 1603 was taken up. On motion by Rep. Mayfield, the rules were waived and CS for SB 1524 was substituted for HB 1603. Under Rule 5.15, the House bill was laid on the table and—

CS for SB 1524—A bill to be entitled An act relating to water management; creating s. 373.1502, F.S.; creating the Comprehensive Everglades Restoration Plan Regulation Act; providing an expedited permitting program for project components as part of the comprehensive plan; amending s. 373.026, F.S.; providing that state funds for land purchases are authorized if contained within the Florida Forever Water Management District Work Plan; amending s. 373.470, F.S.; revising the due date for the annual comprehensive plan report; amending s. 403.088, F.S.; providing standards for the permitting of construction, operation, and maintenance of facilities in the South Florida ecosystem; providing an effective date.

—was read the second time by title.

Representative(s) Mayfield offered the following:

(Amendment Bar Code: 265983)

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

and insert in lieu thereof:

Section 1. Paragraphs (b) and (c) of subsection (8) of section 373.026, Florida Statutes, are amended to read:

373.026 General powers and duties of the department.—The department, or its successor agency, shall be responsible for the administration of this chapter at the state level. However, it is the policy of the state that, to the greatest extent possible, the department may enter into interagency or interlocal agreements with any other state agency, any water management district, or any local government conducting programs related to or materially affecting the water resources of the state. All such agreements shall be subject to the provisions of s. 373.046. In addition to its other powers and duties, the department shall, to the greatest extent possible:

(8)

(b) To ensure to the greatest extent possible that project components will go forward as planned, the department shall collaborate with the *South Florida Water Management* District in *implementing* the *comprehensive plan as defined in s. 373.470(2)(a)* ~~restudy~~. Before any project component is submitted to Congress for authorization or receives an ~~additional~~ appropriation of state funds, the department must approve, or approve with amendments, each project component within 60 days following formal submittal of the project component to the department. Department approval shall be based upon a determination of the *South Florida Water Management* District's compliance with s. 373.1501(5). Once a project component is approved, *the South Florida Water Management District shall provide to the Joint Legislative Committee on Everglades Oversight a schedule for implementing the project component, the estimated total cost of the project component, any existing federal or nonfederal credits, the estimated remaining federal and nonfederal share of costs, and an estimate of the amount of state funds that will be needed to implement the project component.* All

requests for an ~~additional~~ appropriation of state funds needed to implement the project component shall be submitted to the department and such requests shall be included in the department's annual request to the Governor.

(c) Notwithstanding paragraph (b), the use of state funds for land purchases from willing sellers is authorized for projects within the *South Florida Water Management* District's approved 5-year plan of acquisition pursuant to s. 373.59 *or within the South Florida Water Management District's approved Florida Forever water management district work plan pursuant to s. 373.199*.

Section 2. Section 373.1502, Florida Statutes, is created to read:

373.1502 Regulation of comprehensive plan project components.—

(1) SHORT TITLE.—This section may be cited as the "Comprehensive Everglades Restoration Plan Regulation Act."

(2) FINDINGS; INTENT.—

(a) The Legislature finds that implementation of the comprehensive plan, as defined in s. 373.470(2)(a), is in the public interest and is necessary for restoring, preserving, and protecting the South Florida ecosystem, providing for the protection of water quality in and the reduction of the loss of fresh water from the Everglades, and providing such features as are necessary to meet the other water-related needs of the region, including flood control, the enhancement of water supplies, and other objectives served by the project.

(b) The Legislature intends to provide efficient and effective permitting of project components, taking into account all other statutory responsibilities the department and the South Florida Water Management District are required to consider.

(3) REGULATION OF COMPREHENSIVE PLAN STRUCTURES AND FACILITIES.—

(a) This subsection applies to all project components, as defined in s. 373.1501, identified in the comprehensive plan unless the project component is otherwise subject to s. 373.4592, s. 373.4595, or the department's rules on reuse of reclaimed water. Permits issued under this subsection are in lieu of all other permits required under this chapter or chapter 403, except for permits issued under any delegated or approved federal program.

(b) The department shall issue a permit for a term of 5 years for the construction, operation, modification, or maintenance of a project component based on the criteria set forth in this section. If the department is the entity responsible for the construction, operation, modification, or maintenance of any individual project component, the district shall issue a permit for a term of 5 years based on the criteria set forth in this section. The permit application must provide reasonable assurances that:

1. The project component will achieve the design objectives set forth in the detailed design documents submitted as part of the application.

2. State water quality standards will be met to the maximum extent practicable. Under no circumstances shall the project component cause or contribute to violation of state water quality standards.

3. Discharges from the project component will not pose a serious danger to public health, safety, or welfare.

4. Any impacts to wetlands or threatened or endangered species resulting from implementation of the project component will be avoided, minimized, and mitigated, as appropriate.

(c) Construction activities for comprehensive plan project components may be initiated upon submission of a permit application and completion of the department's approval under s. 373.1501, but before final agency action or notice of intended agency action. However, a permit must be obtained before the commencement or modification of operation.

(d) Permits issued under this subsection must contain reasonable conditions to ensure that water quality resulting from construction and operation of project components is adequately and accurately monitored.

(e) Permits issued under this subsection may:

1. Authorize construction, operation, modification, and maintenance of individual or multiple project components under a single permit;

2. Include any standard conditions provided by department rule which are appropriate and consistent with this subsection; or

3. Establish reporting requirements that are consolidated with other reports if all reporting requirements are met.

(f) The permitting entity shall require a processing fee in an amount sufficient to cover the costs of reviewing and acting upon any application for a permit under this section and to cover the costs of surveillance associated with any permit issued under this section.

(g) At least 60 days before the expiration of any permit issued under this subsection, the permittee may apply for a renewal for a term of 5 years. Such submittals are considered timely and sufficient under s. 120.60(4). Permits issued under this subsection may be modified upon review and approval by the department or district, as appropriate.

Section 3. Subsection (3) of section 373.4149, Florida Statutes, is amended to read:

373.4149 Miami-Dade County Lake Belt Plan.—

(3) The Miami-Dade County Lake Belt Area is that area bounded by the Ronald Reagan Turnpike to the east, the Miami-Dade-Broward County line to the north, Krome Avenue to the west and Tamiami Trail to the south together with the land south of Tamiami Trail in sections 5, 6, 7, 8, 17, and 18, Township 54 South, Range 39 East, sections 24, 25, and 36, Township 54 South, Range 38 East less those portions of *section 3, south of Krome Avenue and west of U.S. Highway 27,* section 10, except the west one-half, section 11, except the northeast one-quarter and the east one-half of the northwest one-quarter, and tracts 38 through 41, and tracts 49 through 64 inclusive, section 13, except tracts 17 through 35 and tracts 46 through 48, of Florida Fruit Lands Company Subdivision No. 1 according to the plat thereof as recorded in plat book 2, page 17, public records of Miami-Dade County, and section 14, except the west three quarters, Township 52 South, Range 39 East, lying north of the Miami Canal, sections 35 and 36 and the east one-half of sections 24 and 25, Township 53 South, Range 39 East and Government Lots 1 and 2, lying between Townships 53 and 54 South, Range 39 East and those portions of sections 1 and 2, Township 54 South, Range 39 East, lying north of Tamiami Trail.

Section 4. Paragraphs (b) and (d) of subsection (4) of section 373.4595, Florida Statutes, are amended to read:

373.4595 Lake Okeechobee Protection Program.—

(4) LAKE OKEECHOBEE PROTECTION PERMITS.—

(b) Permits obtained pursuant to this section are in lieu of all other permits under chapter 373 or chapter 403, except those issued under s. 403.0885, if applicable. No additional permits are required for the Lake Okeechobee Construction Project or structures discharging into or from Lake Okeechobee*, if permitted under this section*. Construction activities related to implementation of the Lake Okeechobee Construction Project may be initiated prior to final agency action, or notice of intended agency action, on any permit from the department under this section.

(d) The department shall require permits for Lake Okeechobee Construction Project facilities. *However, projects identified in sub-subparagraph (3)(b)1.b. that qualify as exempt pursuant to s. 373.406 shall not need permits under this section.* Such permits shall be issued for a term of 5 years upon the demonstration of reasonable assurances that:

1. The Lake Okeechobee Construction Project facility, based upon the conceptual design documents and any subsequent detailed design

documents developed by the district, will achieve the design objectives for phosphorus required in paragraph (3)(b);

2. For water quality standards other than phosphorus, the quality of water discharged from the facility is of equal or better quality than the inflows;

3. Discharges from the facility do not pose a serious danger to public health, safety, or welfare; and

4. Any impacts on wetlands or state-listed species resulting from implementation of that facility of the Lake Okeechobee Construction Project are minimized and mitigated, as appropriate.

Section 5. Subsection (7) of section 373.470, Florida Statutes, is amended to read:

373.470 Everglades restoration.—

(7) ANNUAL REPORT.—To provide enhanced oversight of and accountability for the financial commitments established under this section and the progress made in the implementation of the comprehensive plan, the following information must be prepared annually:

(a) The district, in cooperation with the department, shall provide the following information as it relates to implementation of the comprehensive plan:

1. An identification of funds, by source and amount, received by the state and by each local sponsor during the fiscal year.

2. An itemization of expenditures, by source and amount, made by the state and by each local sponsor during the fiscal year.

3. A description of the purpose for which the funds were expended.

4. The unencumbered balance of funds remaining in trust funds or other accounts designated for implementation of the comprehensive plan.

5. A schedule of anticipated expenditures for the next fiscal year.

(b) The department shall prepare a detailed report on all funds expended by the state and credited toward the state's share of funding for implementation of the comprehensive plan. The report shall include:

1. A description of all expenditures, by source and amount, from the Conservation and Recreation Lands Trust Fund, the Land Acquisition Trust Fund, the Preservation 2000 Trust Fund, the Florida Forever Trust Fund, the Save Our Everglades Trust Fund, and other named funds or accounts for the acquisition or construction of project components or other features or facilities that benefit the comprehensive plan.

2. A description of the purposes for which the funds were expended.

3. The unencumbered fiscal-year-end balance that remains in each trust fund or account identified in subparagraph 1.

(c) The district, in cooperation with the department, shall provide a detailed report on progress made in the implementation of the comprehensive plan, including the status of all project components initiated after the effective date of this act or the date of the last report prepared under this subsection, whichever is later.

The information required in paragraphs (a), (b), and (c) shall be provided annually in a single report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and copies of the report must be made available to the public. The initial report is due by November 30, 2000, and each annual report thereafter is due by *January 31* ~~November 30~~.

Section 6. Paragraph (g) of subsection (2) of section 403.088, Florida Statutes, is amended to read:

403.088 Water pollution operation permits; conditions.—

(2)

(g) The Legislature finds that the restoration of the *South Florida ecosystem* ~~Everglades Protection Area, including the construction, operation, and maintenance of stormwater treatment areas (STAs)~~ is in the public interest. Accordingly, whenever a facility to be constructed, operated, or maintained in accordance with *s. 373.1501, s. 373.1502, s. 373.4595, or* s. 373.4592 is subjected to permitting requirements pursuant to chapter 373 or this chapter, and the issuance of the initial permit for a new source, a new discharger, or a recommencing discharger is subjected to a request for hearing pursuant to s. 120.569, the administrative law judge may, upon motion by the permittee, issue a recommended order to the secretary who, within 5 days, shall issue an order authorizing the interim construction, operation, and maintenance of the facility if it complies with all uncontested conditions of the proposed permit and all other conditions recommended by the administrative law judge during the period until the final agency action on the permit.

1. An order authorizing such interim construction, operation, and maintenance shall be granted if requested by motion and no party opposes it.

2. If a party to the administrative hearing pursuant to ss. 120.569 and 120.57 opposes the motion, the administrative law judge shall issue a recommended order granting the motion if the administrative law judge finds that:

a. The facility is likely to receive the permit; and

b. The environment will not be irreparably harmed by the construction, operation, or maintenance of the facility pending final agency action on the permit.

3. Prior to granting a contested motion for interim construction, operation, or maintenance of a facility *regulated or otherwise permitted* ~~authorized~~ by *s. 373.1501, s. 373.1502, s. 373.4595, or* s. 373.4592, the administrative law judge shall conduct a hearing using the summary hearing process defined in s. 120.574, which shall be mandatory for motions made pursuant to this paragraph. Notwithstanding the provisions of s. 120.574(1), summary hearing proceedings for these facilities shall begin within 30 days of the motion made by the permittee. Within 15 days of the conclusion of the summary proceeding, the administrative law judge shall issue a recommended order either denying or approving interim construction, operation, or maintenance of the facility, which shall be submitted to the secretary who shall within 5 days thereafter, enter an order granting or denying interim construction operation or maintenance of the facility. The order shall remain in effect until final agency action is taken on the permit.

Section 7. This act shall take effect upon becoming a law.

And the title is amended as follows:
Remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to the comprehensive Everglades restoration plan; amending s. 373.026, F.S.; requiring the South Florida Water Management District to submit certain information to the Joint Legislative Committee on Everglades Oversight; requiring the committee to provide certain review of appropriation requests and make recommendations to the Legislature; providing that state funds for land purchases are authorized if contained within the district's Florida Forever 5-year work plan; creating s. 373.1502, F.S.; creating the Comprehensive Everglades Restoration Plan Regulation Act; providing for regulation of comprehensive plan project components; providing findings and intent; providing an expedited permit process; providing a fee; providing for renewal; amending s. 373.4149, F.S.; clarifying boundaries of the Miami-Dade County Lake Belt Area; amending s. 373.4595, F.S.; revising Lake Okeechobee protection permit requirements and related exemptions; amending s. 373.470, F.S.; revising due date of the annual report on implementation of the comprehensive plan; amending s. 403.088, F.S.; providing application of water pollution operation permitting procedures to facilities constructed, operated, or maintained

in the South Florida ecosystem, including the components of the comprehensive Everglades restoration plan; providing an effective date.

Rep. Mayfield moved the adoption of the amendment.

On motion by Rep. Diaz-Balart, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 275597)

Amendment 1 to Amendment 1 (with title amendment)—On page 5, line 22 through page 6, line 15 of the amendment

insert:

Section 3. Section 373.4149, Florida Statutes, is amended to read:

373.4149 Miami-Dade County Lake Belt Plan.—

(1) The Legislature hereby accepts and adopts the recommendations contained in the Phase I Lake Belt Report and Plan, ~~known as the "Miami-Dade County Lake Plan,"~~ dated February 1997 and *hereby accepts the Phase II Plan,* submitted *on February 9, 2001 to the Legislature* by the Miami-Dade County Lake Belt Plan Implementation Committee. *These plans shall collectively be known as the Miami-Dade County Lake Belt Plan. This plan was developed to enhance the water supply for Miami-Dade County and the Everglades, including appropriate wellfield protection measures; to maximize efficient recovery of limestone while promoting the social and economic welfare of the community and protecting the environment; and to educate various groups and the general public of the benefits of the plan.*

(2)(a) The Legislature recognizes that deposits of limestone and sand suitable for production of construction aggregates, cement, and road base materials are located in limited areas of the state.

(b) The Legislature recognizes that the deposit of limestone available in South Florida is limited due to urbanization to the east and the Everglades to the west.

(3) The Miami-Dade County Lake Belt Area is that area bounded by the Ronald Reagan Turnpike to the east, the Miami-Dade-Broward County line to the north, Krome Avenue to the west and Tamiami Trail to the south together with the land south of Tamiami Trail in sections 5, 6, 7, 8, 17, and 18, Township 54 South, Range 39 East, sections 24, 25, and 36, Township 54 South, Range 38 East less those portions of *section 3, south of Krome Avenue and west of U.S. Highway 27,* section 10, except the west one-half, section 11, except the northeast one-quarter and the east one-half of the northwest one-quarter, and tracts 38 through 41, and tracts 49 through 64 inclusive, section 13, except tracts 17 through 35 and tracts 46 through 48, of Florida Fruit Lands Company Subdivision No. 1 according to the plat thereof as recorded in plat book 2, page 17, public records of Miami-Dade County, and section 14, except the west three quarters, Township 52 South, Range 39 East, lying north of the Miami Canal, sections 35 and 36 and the east one-half of sections 24 and 25, Township 53 South, Range 39 East and Government Lots 1 and 2, lying between Townships 53 and 54 South, Range 39 East and those portions of sections 1 and 2, Township 54 South, Range 39 East, lying north of Tamiami Trail.

(4) The identification of the Miami-Dade County Lake Belt Area shall not preempt local land use jurisdiction, planning, or regulatory authority in regard to the use of land by private land owners. When amending local comprehensive plans, or implementing zoning regulations, development regulations, or other local regulations, Miami-Dade County shall strongly consider limestone mining activities and ancillary operations, such as lake excavation, including use of explosives, rock processing, cement, concrete and asphalt products manufacturing, and ancillary activities, within the rock mining supported and allowable areas of the Miami-Dade County Lake Plan adopted by subsection (1); provided, however, that limerock mining activities are consistent with wellfield protection. Rezonings or amendments to local comprehensive plans concerning properties that are located within 1 mile of the Miami-Dade Lake Belt Area shall be compatible with limestone mining activities. No rezonings, variances, or amendments to local comprehensive plans for any residential purpose may be approved for any property located in sections 35 and 36 and the east one-half of sections 24 and 25, Township 53 South, Range 39 East until such time as there is no active mining within 2 miles of the property. This section does not preclude residential development that complies with current regulations.

~~(5) The Miami-Dade County Lake Belt Plan Implementation Committee shall be appointed by the governing board of the South Florida Water Management District to develop a strategy for the design and implementation of the Miami-Dade County Lake Belt Plan. The committee shall consist of the chair of the governing board of the South Florida Water Management District, who shall serve as chair of the committee, the policy director of Environmental and Growth Management in the office of the Governor, the secretary of the Department of Environmental Protection, the director of the Division of Water Facilities or its successor division within the Department of Environmental Protection, the director of the Office of Tourism, Trade, and Economic Development within the office of the Governor, the secretary of the Department of Community Affairs, the executive director of the Fish and Wildlife Conservation Commission, the director of the Department of Environmental Resource Management of Miami-Dade County, the director of the Miami-Dade County Water and Sewer Department, the Director of Planning in Miami-Dade County, a representative of the Friends of the Everglades, a representative of the Florida Audubon Society, a representative of the Florida chapter of the Sierra Club, four representatives of the nonmining private landowners within the Miami-Dade County Lake Belt Area, and four representatives from the limestone mining industry to be appointed by the governing board of the South Florida Water Management District. Two ex officio seats on the committee will be filled by one member of the Florida House of Representatives to be selected by the Speaker of the House of Representatives from among representatives whose districts, or some portion of whose districts, are included within the geographical scope of the committee as described in subsection (3), and one member of the Florida Senate to be selected by the President of the Senate from among senators whose districts, or some portion of whose districts, are included within the geographical scope of the committee as described in subsection (3). The committee may appoint other ex officio members, as needed, by a majority vote of all committee members. A committee member may designate in writing an alternate member who, in the member's absence, may participate and vote in committee meetings.~~

~~(6) The committee shall develop Phase II of the Lake Belt Plan which shall:~~

~~(a) Include a detailed master plan to further implementation;~~

~~(b) Consider the feasibility of a common mitigation plan for nonrock mining uses, including a nonrock mining mitigation fee. Any mitigation fee shall be for the limited purpose of offsetting the loss of wetland functions and values and not as a revenue source for other purposes.~~

~~(c) Further address compatible land uses, opportunities, and potential conflicts;~~

~~(d) Provide for additional wellfield protection;~~

~~(e) Provide measures to prevent the reclassification of the Northwest Miami-Dade County wells as groundwater under the direct influence of surface water;~~

~~(f) Secure additional funding sources;~~

~~(g) Consider the need to establish a land authority; and~~

~~(h) Analyze the hydrological impacts resulting from the future mining included in the Lake Belt Plan and recommend appropriate mitigation measures, if needed, to be incorporated into the Lake Belt Mitigation Plan.~~

~~(7) The committee shall remain in effect until January 1, 2002, and shall meet as deemed necessary by the chair. The committee shall~~

~~monitor and direct progress toward developing and implementing the plan. The committee shall submit progress reports to the governing board of the South Florida Water Management District and the Legislature by December 31 of each year. These reports shall include a summary of the activities of the committee, updates on all ongoing studies, any other relevant information gathered during the calendar year, and the committee recommendations for legislative and regulatory revisions. The committee shall submit a Phase II report and plan to the governing board of the South Florida Water Management District and the Legislature by December 31, 2000, to supplement the Phase I report submitted on February 28, 1997. The Phase II report must include the detailed master plan for the Miami-Dade County Lake Belt Area together with the final reports on all studies, the final recommendations of the committee, the status of implementation of Phase I recommendations and other relevant information, and the committee's recommendation for legislative and regulatory revisions.~~

~~(8) The committee shall report to the governing board of the South Florida Water Management District semiannually.~~

~~(9) In carrying out its work, the committee shall solicit comments from scientific and economic advisors and governmental, public, and private interests. The committee shall provide meeting notes, reports, and the strategy document in a timely manner for public comment.~~

~~(10) The committee is authorized to seek from the agencies or entities represented on the committee any grants or funds necessary to enable it to carry out its charge.~~

(5)~~(11)~~ The secretary of the Department of Environmental Protection, the secretary of the Department of Community Affairs, the secretary of the Department of Transportation, the Commissioner of Agriculture, the executive director of the Fish and Wildlife Conservation Commission, and the executive director of the South Florida Water Management District may enter into agreements with landowners, developers, businesses, industries, individuals, and governmental agencies as necessary to effectuate the *Miami-Dade Lake Belt Plan and the* provisions of this section.

(6)~~(12)~~(a) All agencies of the state shall review the status of their landholdings within the boundaries of the Miami-Dade County Lake Belt. Those lands for which no present or future use is identified must be made available, together with other suitable lands, to the *Department of Environmental Protection* ~~committee~~ for its use in carrying out the objectives of this act.

(b) It is the intent of the Legislature that lands provided to the *Department of Environmental Protection* ~~committee~~ be used for land exchanges to further the objectives of this act.

Section 4. Section 373.4415, Florida Statutes, is amended to read:

373.4415 Role of Miami-Dade County in processing permits for limerock mining in Miami-Dade County Lake Belt.—The department and Miami-Dade County shall cooperate to establish and fulfill reasonable requirements for the departmental delegation to the Miami-Dade County Department of Environmental Resource Management of authority to implement the permitting program under ss. 373.403-373.439 for limerock mining activities within the geographic area of the Miami-Dade County Lake Belt which was recommended for mining in the report submitted to the Legislature in February 1997 ~~by the Miami-Dade County Lake Belt Plan Implementation Committee~~ under s. 373.4149. The delegation of authority must be consistent with s. 373.441 and chapter 62-344, Florida Administrative Code. To further streamline permitting within the Miami-Dade County Lake Belt, the department and Miami-Dade County are encouraged to work with the United States Army Corps of Engineers to establish a general permit under s. 404 of the Clean Water Act for limerock mining activities within the geographic area of the Miami-Dade County Lake Belt consistent with the report submitted in February 1997. Miami-Dade County is further encouraged to seek delegation from the United States Army Corps of Engineers for the implementation of any such general permit. This section does not limit the authority of the department to delegate other responsibilities to Miami-Dade County under this part.

Section 5. Section 378.4115, Florida Statutes, is amended to read:

378.4115 County certification for limerock mining in the Miami-Dade County Lake Belt.—The department and Miami-Dade County shall cooperate to establish and fulfill reasonable requirements for the departmental certification of the Miami-Dade County Department of Environmental Resource Management to implement the reclamation program under ss. 378.401-378.503 for limerock mining activities within the geographic area of the Miami-Dade County Lake Belt which was recommended for mining in the report submitted to the Legislature in February 1997 ~~by the Miami-Dade County Lake Belt Plan Implementation Committee~~ under s. 373.4149. The delegation of implementing authority must be consistent with s. 378.411 and chapter 62C-36, Florida Administrative Code. Further, the reclamation program shall maximize the efficient mining of limestone, and the littoral area surrounding the lake excavations shall not be required to be greater than 100 feet average in width.

And the title is amended as follows:

On page 11, line 30 through 31 of the amendment
remove: all of said lines

and insert in lieu thereof: F.S.; providing for acceptance of the Phase II Lake Belt Plan; clarifying boundaries of the Miami-Dade County Lake Belt Area; eliminating the Miami-Dade Lake Belt Plan Implementation Committee; providing for certain lands to be made available to the Department of Environmental Protection to be used for land exchanges; amending s. 373.4415, F.S.; deleting an obsolete reference; amending s. 378.4115, F.S.; deleting an obsolete reference; amending s. 373.4595,

Rep. Diaz-Balart moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

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

CS/HB 793—A bill to be entitled An act relating to elderly persons and disabled adults; amending s. 825.101, F.S.; defining the term "position of trust and confidence"; amending s. 772.11, F.S.; prescribing civil remedies for theft and other offenses in which the victim is an elderly person or disabled adult; providing that a violation of patient rights is not a cause of action under the act; providing for continuation of a cause of action upon the death of the elderly person or disabled adult; authorizing the court to advance a trial on the docket which involves a victim who is an elderly person or disabled adult; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 947—A bill to be entitled An act relating to medical malpractice presuit investigations; amending s. 766.104, F.S.; authorizing the release of certain records relating to medical care and treatment of a decedent upon the request of certain persons; providing exemption from liability and discipline for health care practitioners complying in good faith; providing an effective date.

—was read the second time by title.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 812627)

Amendment 1—On page 2, lines 28 through 30
remove from the bill: all of said lines

and insert in lieu thereof: *made available, upon request, to the spouse, parent, child who has reached majority, guardian pursuant to chapter 744, surrogate or proxy pursuant to chapter 765, or attorney in fact of the deceased pursuant to chapter 709. A*

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

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

CS/CS/HB 719—A bill to be entitled An act relating to damage or destruction of agricultural products; creating s. 604.60, F.S.; providing that certain agricultural growers or producers shall have a right to recover damages as a result of willful and knowing damage or destruction of specified agricultural products; providing considerations and limits in award of damages; providing for costs and attorney's fees; amending s. 810.09, F.S.; prohibiting trespass upon specified legally posted agricultural sites; providing a penalty; reenacting ss. 260.0125(5)(b) and 810.011(5)(b), F.S., to incorporate the amendment to s. 810.09, F.S., in references thereto; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1215—A bill to be entitled An act relating to a corporate income tax credit to promote new product development; providing a short title; creating s. 288.907, F.S.; providing definitions; providing for licensing of certain products or technologies by donor companies to receiving companies for production and marketing; providing duties of such companies and of Enterprise Florida, Inc.; providing requirements for product development agreements; creating s. 220.115, F.S.; requiring receiving companies to file a corporate tax return and remit to the state certain fees in addition to any corporate income tax due; providing for application of administrative and penalty provisions of ch. 220, F.S.; creating s. 220.1825, F.S.; providing for a credit against the corporate income tax for donor companies; providing for determination of the amount of the credit by Enterprise Florida, Inc., and notification to the Department of Revenue; providing for carryover of the credit; amending s. 220.02, F.S.; providing order of credits against the tax; providing an effective date.

—was read the second time by title.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 592097)

Amendment 1—On page 3, line 29, after the word "equal" and on

Page 4, line 3, after the word "exceed" and on

Page 5, line 5, after the word "to" of the bill

insert: *94.5 percent of*

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

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 740033)

Amendment 2—On page 4, line 29, of the bill

after the period insert:
The Department of Revenue may adopt rules requiring the information that it considers necessary to ensure that the funds due under this section are properly reported and paid, including, but not limited to rules relating to the methods, forms (including the filing of returns by the receiving companies), deadlines, and penalties for providing the information required under this section.

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

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 542989)

Amendment 3—On page 5, line 10 of the bill

after the period insert:
The Department of Revenue may adopt rules relating to the method of reporting and claiming this credit.

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

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

CS/HB 337—A bill to be entitled An act relating to public libraries; amending s. 257.17, F.S.; providing additional conditions for receipt of operating grants; providing conditions for potential loss of eligibility to receive an operating grant; requiring a report to the Division of Library and Information Services of the Department of State; requiring a report to the Legislature; revising a repeal date with respect to authorizing certain municipalities to receive operating grants for libraries; providing an effective date.

—was read the second time by title.

Further consideration of **CS/HB 337** was temporarily postponed under Rule 11.10.

HB 635—A bill to be entitled An act relating to drivers' licenses; creating s. 322.0515, F.S.; providing for compliance with federal requirements by certain applicants for drivers' licenses or identification cards; directing the Department of Highway Safety and Motor Vehicles to forward certain information to the federal Selective Service System with respect to certain applicants; providing described notice to applicants; directing the department to include a described statement on certain applications for drivers' licenses or identification cards; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 345—A bill to be entitled An act relating to sports industry economic development projects; amending s. 212.20, F.S.; providing for the Department of Revenue to distribute sales tax reimbursements to certified sports industry economic development projects under certain circumstances; amending s. 213.053, F.S.; extending the current information sharing with the Office of Tourism, Trade, and Economic Development to include the sales tax reimbursement program for certified sports industry economic development projects; creating s. 288.113, F.S.; creating a tax reimbursement program for certified sports industry economic development projects; providing legislative findings and declarations; providing definitions; providing eligibility criteria for amateur sports businesses; prescribing the terms and amounts of tax reimbursements; providing a certification procedure, to be established and administered by the Office of Tourism, Trade, and Economic Development; providing for periodic recertification; abating or reducing funding in specified circumstances; providing a maximum number of years for which an amateur sports business may be certified; providing for decertification; providing a penalty for falsifying an application; providing for a tax reimbursement agreement and prescribing terms of the agreement; providing for annual claims for reimbursement; providing duties of the Department of Revenue; providing for administration of the program; providing for recordkeeping and submission of an annual report to the Legislature; amending s. 288.1229, F.S.; providing an additional purpose for which the Office of Tourism, Trade, and Economic Development may authorize a direct-support organization to assist the office; providing for the creation of new jobs in this state; providing an effective date.

—was read the second time by title.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 823345)

Amendment 1—On page 6, lines 4-10, and on page 10, lines 14-20, remove from the bill: all of said lines,

and insert in lieu thereof:

e. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as a certified sports industry economic development project pursuant to s. 288.113, and has generated new sales tax revenues

that have been remitted to the state during the prior twelve months, a monthly sales tax reimbursement payment in the amount set forth in the notice by the Office of Tourism, Trade and Economic Development, based on actual sales tax generated over a 12-month period, shall be distributed to the

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

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

HB 1973—A bill to be entitled An act relating to state debt; creating s. 215.98, F.S.; providing a declaration of public policy; requiring the Division of Bond Finance of the State Board of Administration to conduct an annual debt affordability analysis; requiring a report; specifying report requirements; amending s. 11.90, F.S.; providing additional powers and duties of the Legislative Budget Commission relating to the state's debt; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1961—A bill to be entitled An act relating to tax on sales, use, and other transactions; creating s. 212.213, F.S.; providing that it is the policy of this state that only those items, services, and other transactions deemed to be subject to said tax on July 1, 2001, shall be taxed under ch. 212, F.S., unless made subject to said tax by act of the Legislature; providing an effective date.

—was read the second time by title.

Representative(s) Wallace offered the following:

(Amendment Bar Code: 494845)

Amendment 1 (with title amendment)—On page 1, between lines 25 and 26 of the bill

insert:

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

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(b) Machinery and equipment ~~used to increase productive output~~.—

1. Industrial machinery and equipment purchased for exclusive use by a new business in spaceport activities as defined by s. 212.02 or for use in new businesses which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2.a. Industrial machinery and equipment purchased for exclusive use by *a* ~~an expanding~~ facility *that* ~~which~~ is engaged in spaceport activities as defined by s. 212.02 or for use in ~~expanding~~ manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state are exempt from *the* ~~any amount of~~ tax imposed by this chapter in excess of *$40,000* ~~$50,000~~ per calendar year ~~upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded facility or business by not less than 10 percent~~.

b. Notwithstanding any other provision of this section, industrial machinery and equipment purchased for use in expanding printing manufacturing facilities or plant units that manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state are exempt from any amount of tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such an expanded business by not less than 10 percent.

3.a. To receive an exemption provided by subparagraph 1. or subparagraph *2.b.* ~~2.~~, a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph *2.b.* ~~2.~~, the department shall issue such permit.

b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery and equipment pursuant to subparagraph 1. or subparagraph *2.b.* ~~2.~~, the temporary tax permit shall be delivered to the department or returned to the department by certified or registered mail.

c. If, in a subsequent audit conducted by the department, it is determined that the machinery and equipment purchased as exempt under subparagraph 1. or subparagraph *2.b.* ~~2.~~ did not meet the criteria mandated by this paragraph or if commencement of production did not occur, the amount of taxes exempted at the time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.

d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the department required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph *2.b.* ~~2.~~ through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph *2.b.* ~~2.~~ have been met and commencement of production has occurred.

4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery or equipment purchased or used by electric utility companies, communications companies, oil or gas exploration or production operations, publishing firms that do not export at least 50 percent of their finished product out of the state, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, or any firm which does not manufacture, process, compound, or produce for sale items of tangible personal property or which does not use such machinery and equipment in spaceport activities as required by this paragraph. The exemptions provided in subparagraphs 1. and 2. shall apply to machinery and equipment purchased for use in phosphate or other solid minerals severance, mining, or processing operations only by way of a prospective credit against taxes due under chapter 211 for taxes paid under this chapter on such machinery and equipment.

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of spaceport activities or of the manufacturing, processing, compounding, or producing for sale

of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; provided, however, in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

And the title is amended as follows:

On page 1, line 9, after the semicolon

insert: amending s. 212.08, F.S.; revising the exemption for industrial machinery and equipment; broadening the application of the exemption; reducing the maximum amount of the tax which is imposed on such machinery and equipment;

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

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

HB 1983—A bill to be entitled An act relating to ad valorem tax administration; amending s. 193.155, F.S.; revising provisions relating to the correction of errors in the assessment of homestead property due to a material mistake of fact; amending s. 195.096, F.S.; requiring the Department of Revenue to document and retain records used in the review of assessment rolls; requiring the department, effective for 2003 and subsequent tax rolls, to study assessment roll strata by value groups or market areas to ensure the representativeness of ratio study samples; amending s. 197.212, F.S., which allows the board of county commissioners to instruct the tax collector not to mail a tax notice when the amount of taxes is less than a specified amount; increasing such minimum amount; amending s. 197.343, F.S.; revising the deadline for mailing an additional tax notice to a taxpayer whose payment has not been received; amending s. 197.502, F.S.; authorizing the tax collector to contract with a title or abstract company to provide information concerning property described in a tax certificate and providing requirements with respect thereto; authorizing the tax collector to pay a reasonable fee for this information; providing that the amount of such fee shall be added to the opening bid for a tax deed for the property; amending s. 200.069, F.S., which provides requirements for the form of the notice of proposed property taxes and non-ad valorem assessments; removing provisions which specify that a separate line entry for each independent special taxing district is optional; revising requirements for entries relating to voted levies for debt service; amending s. 192.0105, F.S.; correcting a reference; creating a Property Tax Administration Task Force and providing its duties; providing effective dates.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

On motion by Rep. Garcia, the House moved to the consideration of CS/HB 337 on Special Orders.

CS/HB 337—A bill to be entitled An act relating to public libraries; amending s. 257.17, F.S.; providing additional conditions for receipt of operating grants; providing conditions for potential loss of eligibility to receive an operating grant; requiring a report to the Division of Library and Information Services of the Department of State; requiring a report to the Legislature; revising a repeal date with respect to authorizing certain municipalities to receive operating grants for libraries; providing an effective date.

—was taken up, having been read the second time earlier today.

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 743565)

Amendment 1 (with title amendment)—On page 1, line 25, through page 3, line 5,
remove from the bill: all of said lines

and insert in lieu thereof:

(4)(a) A municipality with a population of 200,000 or more that establishes or maintains a library is eligible to receive from the state an annual operating grant of not more than 25 percent of all local funds expended by that municipality during the second preceding fiscal year for the operation and maintenance of a library, under the following conditions:

1. The municipal library is operated under a single administrative head and expends its funds centrally;

2. The municipal library has an operating budget of at least $20,000 per year from local sources; and

3. The municipal library provides free library service to all residents of the municipality.

(b) This subsection is repealed on July 1, *2002* ~~2001~~.

Section 2. *(1) The Division of Library and Information Services of the Department of State shall encourage and facilitate the exploration of the feasibility of forming public library cooperatives by municipalities and county-designated single administrative units through interlocal agreement in order to extend library service to residents of both legal service areas. A municipality and county-designated single administrative unit that explores the feasibility of extending library service to residents of both service areas shall submit recommendations on the progress made toward forming a cooperative to the Division of Library and Information Services by December 1, 2001. By January 2, 2002, the division shall submit a report to the President of the Senate and the Speaker of the House of Representatives which shall include a status report on the progress of extending library services by these entities and shall make recommendations for any changes in law or funding as a result of the report. The report shall also include a review of the State Aid to Libraries program to determine what revisions, if any, need to be made to that program to encourage and improve the delivery of free library service to all residents of the state. Finally, the report shall provide recommendations for statutory and funding changes based upon the review.*

(2) This section expires July 1, 2002.

And the title is amended as follows:

On page 1, lines 3-13,
remove from the title of the bill: all of said lines

and insert in lieu thereof: s. 257.17, F.S.; extending the repeal date of a provision authorizing operating grants; requiring the Division of Library and Information Services to facilitate the extension of free library services through interlocal agreement; requiring reports; providing an effective date.

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

Rep. Diaz de la Portilla moved that, under Rule 12.2(c), a late-filed amendment be allowed for consideration, which was not agreed to.

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

CS/HB 113 was taken up. On motion by Rep. Trovillion, the rules were waived and CS for CS for SB 870 was substituted for CS/HB 113. Under Rule 5.15, the House bill was laid on the table and—

CS for CS for SB 870—A bill to be entitled An act relating to construction; amending s. 218.72, F.S.; redefining the terms "proper invoice," "local government entity," "purchase," and "construction services" and defining the terms "payment request" and "agent" for the purpose of the Florida Prompt Payment Act; amending s. 218.73, F.S.; providing for timely payment for nonconstruction services; amending s. 218.735, F.S.; revising provisions with respect to timely payment for purchases of construction services; providing for disputed payment requests; providing for payment of undisputed amounts; amending s. 218.74, F.S.; revising provisions with respect to procedures for calculation of payment due dates; amending s. 218.75, F.S.; revising provisions with respect to mandatory interest; amending s. 218.76, F.S.; revising provisions with respect to improper invoices and resolution of disputes; providing for the recovery of court costs and attorney's fees under certain circumstances; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1091—A bill to be entitled An act relating to specialty license plates; amending ss. 320.08056 and 320.08058, F.S.; providing for a Florida Golf license plate; providing for a use fee; directing the Department of Highway Safety and Motor Vehicles to develop a Florida Golf license plate; providing for the distribution of fees; providing an effective date.

—was read the second time by title.

The Committee on Transportation offered the following:

(Amendment Bar Code: 440469)

Amendment 1—On page 5, lines 22 through 24,
remove from the bill: Tee Off For Opportunity Trust Fund of the Dade Amateur Golf Association. The Tee Off For Opportunity Trust Fund

and insert in lieu thereof: *Florida Childrens' Golf Fund. The Florida Childrens' Golf Fund*

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

The Committee on Transportation & Economic Development Appropriations offered the following:

(Amendment Bar Code: 070569)

Amendment 2 (with title amendment)—On page 5, line 1
remove from the bill: everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (ff) is added to subsection (4) of section 320.08056, Florida Statutes, to read:

320.8056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(ff) *Florida Golf license plate, $25.*

Section 2. Subsection (32) is added to section 320.08058, Florida Statutes, to read:

320.08058 Specialty license plates.—

(32) FLORIDA GOLF LICENSE PLATES:—

(a) The Department of Highway Safety and Motor Vehicles shall develop a Florida Golf License plate as provided in this section. The word "Florida" must appear at the bottom of the plate. The Dade Amateur Golf Association, following consultation with the PGA TOUR, the Florida Sports Foundation, the LPGA and the PGA of America may submit a revised sample plate for consideration by the department.

(b) The department shall distribute the Florida Golf License Plate annual use fee to the Florida Sports Foundation, a direct support organization of the Office of Tourism, Trade, and Economic Development. The license plate annual use fees are to be annually allocated as follows:

1. Up to five percent of the proceeds from the annual use fees may be used by the Florida Sports Foundation for the administration of the Florida Youth Golf Program.

2. The Dade Amateur Golf Association shall receive the first $80,000 in proceeds from the annual use fees for the operation of youth golf programs in Miami-Dade County. Thereafter, fifteen percent of the proceeds from the annual use fee shall be provided to the Dade Amateur Golf Association for the operation of youth golf programs in Miami-Dade County.

3. The remaining proceeds from the annual use fee shall be available for grants to non-profit organizations to operate youth golf programs and for the purpose of marketing the Florida Golf License Plates. All grant recipients, including the Dade Amateur Golf Association, shall be required to provide to the Florida Sports Foundation an annual program and financial report regarding the use of grant funds. Such reports shall be made available to the public.

(c) The Florida Sports Foundation shall establish a Florida Youth Golf Program. The Florida Youth Golf Program shall assist organizations for the benefit of youth, introduce young people to golf, instruct young people in golf, teach the values of golf and stress life skills, fair play, courtesy, self-discipline.

(d) The Florida Sports Foundation shall establish a five member committee to offer advice regarding the distribution of the annual use fees for grants to non-profit organizations. The advisory committee shall consist of one member from an agency serving youth, one member an agency serving disabled youth and three members at large.

And the title is amended as follows:

On page 1, line 8 through page 4, line 27
remove from the title of the bill: all of said lines

and insert in lieu thereof: providing for the distribution and use of fees; requiring the Florida Sports Foundation to establish a youth golf program; providing for an advisory committee; providing an effective date.

Rep. Russell moved the adoption of the amendment.

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 642025)

Amendment 1 to Amendment 2—On page 3, lines 2-7
remove from the amendment: all of said lines

and insert in lieu thereof:

(d) The Florida Sports Foundation shall establish a five-member committee to offer advice regarding the distribution of the annual use fees for grants to nonprofit organizations. The advisory committee shall consist of one member from a group serving youth, one member from a group serving disabled youth, and three members at large.

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

The question recurred on the adoption of **Amendment 2**, as amended, which was adopted.

Representative(s) Ritter offered the following:

(Amendment Bar Code: 084917)

Amendment 3—On page 5, line 19,
remove from the bill: all of said lines

and insert in lieu thereof: *bottom of the plate and the words "Choose Golf"*

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

Reconsideration

On motion by Rep. Russell, the House reconsidered the vote by which **Amendment 3** was adopted. The question recurred on the adoption of the amendment, which failed of adoption.

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

HB 757—A bill to be entitled An act relating to wrecker liens; creating s. 319.227, F.S.; providing for notice of transfer of motor vehicle or mobile home; amending s. 320.03, F.S.; including a cross reference; providing that the term "civil penalties and fines" does not include reference to a wrecker operator's lien; amending s. 713.78, F.S.; providing that the Department of Highway Safety and Motor Vehicles shall not issue a license plate or revalidation sticker for certain motor vehicles, vessels, or motor homes for which a wrecker operator's lien has been issued; providing procedures with respect to such liens; creating s. 328.25, F.S.; providing for notice of transfer of vessel; providing an effective date.

—was read the second time by title.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 751657)

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

and insert in lieu thereof:

Section 1. Subsection (8) of section 320.03, Florida Statutes, is amended to read:

320.03 Registration; duties of tax collectors; International Registration Plan.—

(8) If the applicant's name appears on the list referred to in s. 316.1001(4), ~~or~~ s. 316.1967(6), *or s. 713.78(13),* a license plate or revalidation sticker may not be issued until that person's name no longer appears on the list or until the person presents a receipt from the clerk showing that the fines outstanding have been paid. The tax collector and the clerk of the court are each entitled to receive monthly, as costs for implementing and administering this subsection, 10 percent of the civil penalties and fines recovered from such persons. *As used in this subsection, the term "civil penalties and fines" does not include a wrecker operator's lien as described in s. 713.78(13).* If the tax collector has private tag agents, such tag agents are entitled to receive a pro rata share of the amount paid to the tax collector, based upon the percentage of license plates and revalidation stickers issued by the tag agent compared to the total issued within the county. The authority of any private agent to issue license plates shall be revoked, after notice and a hearing as provided in chapter 120, if he or she issues any license plate or revalidation sticker contrary to the provisions of this subsection. This section applies only to the annual renewal in the owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under this chapter, except for the transfer of registrations which is inclusive of the annual renewals. This section does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(7)(b).

Section 2. Subsection (13) is added to section 713.78, Florida Statutes, to read:

713.78 Liens for recovering, towing, or storing vehicles and documented vessels.—

(13)(a) Upon receipt by the Department of Highway Safety and Motor Vehicles of written notice from a wrecker operator who claims a wrecker operator's lien under paragraph (2)(c) for recovery, towing, or storage of a vehicle, vessel, or mobile home, upon instructions from any law enforcement agency, for which a certificate of destruction has been issued under subsection (11), the department shall place the name of the registered owner of that vehicle, vessel, or mobile home on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8). If the vehicle, vessel, or mobile home is owned jointly by more than one person, the name of each registered owner shall be placed on the list. The notice of wrecker operator's lien shall be submitted on forms provided by the department, which must include:

1. The name, address, and telephone number of the wrecker operator.

2. The name of the registered owner of the vehicle, vessel, or mobile home and the address to which the wrecker operator provided notice of the lien to the registered owner under subsection (4).

3. A general description of the vehicle, vessel, or mobile home, including its color, make, model, body style, and year.

4. The vehicle identification number (VIN); registration license plate number, state, and year; validation decal number, state, and year; mobile home sticker number, state, and year; vessel registration number; hull identification number; or other identification number, as applicable.

5. The name of the person and the corresponding law enforcement agency that requested that the vehicle, vessel, or mobile home be recovered, towed, or stored.

6. The amount of the wrecker operator's lien, not to exceed the amount allowed by paragraph (b).

(b) For purposes of this subsection only, the amount of the wrecker operator's lien for which the department will prevent issuance of a license plate or revalidation sticker may not exceed the amount of the charges for recovery, towing, and storage of the vehicle, vessel, or mobile home for 7 days. These charges may not exceed the maximum rates imposed by the ordinances of the respective county or municipality under ss. 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit the amount of a wrecker operator's lien claimed under subsection (2) or prevent a wrecker operator from seeking civil remedies for enforcement of the entire amount of the lien, but limits only that portion of the lien for which the department will prevent issuance of a license plate or revalidation sticker.

(c)1. The registered owner of a vehicle, vessel, or mobile home may dispute a wrecker operator's lien, by notifying the department of the dispute in writing on forms provided by the department, if at least one of the following applies:

a. The registered owner presents a notarized bill of sale proving that the vehicle, vessel, or mobile home was sold in a private or casual sale before the vehicle, vessel, or mobile home was recovered, towed, or stored.

b. The registered owner presents proof that the Florida certificate of title of the vehicle, vessel, or mobile home was sold to a licensed dealer as defined in s. 319.001 before the vehicle, vessel, or mobile home was recovered, towed, or stored.

If the registered owner's dispute of a wrecker operator's lien complies with one of these criteria, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a licensed plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. If the vehicle, vessel, or mobile home is owned jointly by more than one person, each registered owner must dispute the wrecker operator's lien in order to be removed from the list. However, the department shall deny any dispute and maintain the registered owner's name on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8) if the wrecker operator has provided the department with a certified copy of the

judgment of a court which orders the registered owner to pay the wrecker operator's lien claimed under this section. In such a case, the amount of the wrecker operator's lien allowed by paragraph (b) may be increased to include no more than $500 of the reasonable costs and attorney's fees incurred in obtaining the judgment. The department's action under this subparagraph is ministerial in nature, shall not be considered final agency action, and is appealable only to the county court for the county in which the vehicle, vessel, or mobile home was ordered removed.

2. A person against whom a wrecker operator's lien has been imposed may alternatively obtain a discharge of the lien by filing a complaint, challenging the validity of the lien or the amount thereof, in the county court of the county in which the vehicle, vessel, or mobile home was ordered removed. Upon filing of the complaint, the person may have her or his name removed from the list of those persons who may not be issued a licensed plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the court a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien to ensure the payment of such lien in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. Upon determining the respective rights of the parties, the court may award damages and costs in favor of the prevailing party.

3. If a person against whom a wrecker operator's lien has been imposed does not object to the lien, but cannot discharge the lien by payment because the wrecker operator has moved or gone out of business, the person may have her or his name removed from the list of those persons who may not be issued a licensed plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the clerk of court in the county in which the vehicle, vessel, or mobile home was ordered removed, a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien. Upon the posting of the bond and the payment of the application fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. The department shall mail to the wrecker operator, at the address upon the lien form, notice that the wrecker operator must claim the security within 60 days, or the security will be released back to the person who posted it. At the conclusion of the 60 days, the department shall direct the clerk as to which party is entitled to payment of the security, less applicable clerk's fees.

4. A wrecker operator's lien expires 5 years after filing.

(d) Upon discharge of the amount of the wrecker operator's lien allowed by paragraph (b), the wrecker operator must issue a certificate of discharged wrecker operator's lien on forms provided by the department to each registered owner of the vehicle, vessel, or mobile home attesting that the amount of the wrecker operator's lien allowed by paragraph (b) has been discharged. Upon presentation of the certificate of discharged wrecker operator's lien by the registered owner, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. Issuance of a certificate of discharged wrecker operator's lien under this paragraph does not discharge the entire amount of the wrecker operator's lien claimed under subsection (2), but only certifies to the department that the amount of the wrecker operator's lien allowed by paragraph (b), for which the department will prevent issuance of a license plate or revalidation sticker, has been discharged.

(e) When a wrecker operator files a notice of wrecker operator's lien under this subsection, the department shall charge the wrecker operator a fee of $2, which shall be deposited into the Florida Motor Vehicle Theft Prevention Trust Fund established under s. 860.158. A service charge of $2.50 shall be collected and retained by the tax collector who processes a notice of wrecker operator's lien.

(f) This subsection applies only to the annual renewal in the registered owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under chapter 320, except for the transfer of registrations which is inclusive of the annual renewals. This subsection does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(7)(b).

(g) The Department of Highway Safety and Motor Vehicles may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

Section 3. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2 after "liens;" through line 17,
remove from the title of the bill: all of said lines

and insert in lieu thereof: amending s. 320.03, F.S.; including a cross reference; providing that the term "civil penalties and fines" does not include reference to a wrecker operator's lien; amending s. 713.78, F.S.; providing that the Department of Highway Safety and Motor Vehicles shall not issue a license plate or revalidation sticker for certain motor vehicles, vessels, or motor homes for which a wrecker operator's lien has been issued; providing procedures with respect to such liens; providing an effective date.

Rep. Kottkamp moved the adoption of the amendment.

The Committee on Transportation offered the following:

(Amendment Bar Code: 625279)

Amendment 1 to Amendment 1—On page 2, lines 27-28,
remove from the amendment: *paragraph (2)(c)*

and insert in lieu thereof: *paragraphs (2)(c) or (2)(d)*

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

The Committee on Transportation offered the following:

(Amendment Bar Code: 644741)

Amendment 2 to Amendment 1—On page 3, line 24
remove from the amendment: *and*

and insert in lieu thereof: *or*

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

The Council for Smarter Government offered the following:

(Amendment Bar Code: 120365)

Amendment 3 to Amendment 1—On page 2, lines 21 -24
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 2. Subsections (4)(b) and (6) of section 713.78, Florida Statutes, is amended, and subsection (13) is added to said section to read:

713.78 Liens for recovering, towing, or storing vehicles and documented vessels.—

(4)(b) Notice by certified mail, return receipt requested, shall be sent within 7 business days after the date of storage of the vehicle or vessel to the registered owner and to all persons of record claiming a lien against the vehicle or vessel. It shall state the fact of possession of the vehicle or vessel, that a lien as provided in subsection (2) is claimed, that charges have accrued and the amount thereof, that the lien is subject to enforcement pursuant to law, and that the owner or lienholder, if any, has the right to a hearing as set forth in subsection (5), and that any vehicle or vessel which remains unclaimed, or for which the charges for

recovery, towing, or storage services remain unpaid, may be sold ~~after 35 days~~ free of all prior liens *after 35 days if the vehicle or vessel is more than 3 years of age and after 50 days if the vehicle or vessel is 3 years of age or less*.

(6) Any vehicle or vessel which is stored pursuant to subsection (2) and which remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid or for which a lot rental amount is due and owing to the mobile home park owner, as evidenced by a judgment for unpaid rent, and any contents not released pursuant to subsection (10), may be sold by the owner or operator of the storage space for such towing or storage charge or unpaid lot rental amount after 35 days from the time the vehicle or vessel is stored therein *if the vehicle or vessel is more than 3 years of age and after 50 days from the time the vehicle or vessel is stored therein if the vehicle or vessel is 3 years of age or less*. The sale shall be at public auction for cash. If the date of the sale was not included in the notice required in subsection (4), notice of the sale shall be given to the person in whose name the vehicle, vessel, or mobile home is registered, to the mobile home park owner, and to all persons claiming a lien on the vehicle or vessel as shown on the records of the Department of Highway Safety and Motor Vehicles or of the corresponding agency in any other state. Notice shall be sent by certified mail, return receipt requested, to the owner of the vehicle or vessel and the person having the recorded lien on the vehicle or vessel at the address shown on the records of the registering agency and shall be mailed not less than 15 days before the date of the sale. After diligent search and inquiry, if the name and address of the registered owner or the owner of the recorded lien cannot be ascertained, the requirements of notice by mail may be dispensed with. In addition to the notice by mail, public notice of the time and place of sale shall be made by publishing a notice thereof one time, at least 10 days prior to the date of the sale, in a newspaper of general circulation in the county in which the sale is to be held. The proceeds of the sale, after payment of reasonable towing and storage charges, costs of the sale, and the unpaid lot rental amount, in that order of priority, shall be deposited with the clerk of the circuit court for the county if the owner is absent, and the clerk shall hold such proceeds subject to the claim of the person legally entitled thereto. The clerk shall be entitled to receive 5 percent of such proceeds for the care and disbursement thereof. The certificate of title issued under this law shall be discharged of all liens unless otherwise provided by court order.

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

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

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

CS/HB 1133—A bill to be entitled An act relating to operations of correctional work programs; revising provisions relating to leased or managed work programs to conform to current operations and applications; amending ss. 946.502, 946.5025, 946.5026, 946.503, 946.506, 946.509, 946.511, 946.514, 946.516, 946.518, and 946.520, F.S.; conforming internal cross references; deleting obsolete provisions; clarifying a definition; changing a reporting date; amending s. 957.04, F.S., to conform a cross reference; providing legislative findings with regard to fulfillment of an important state interest; creating s. 946.525, F.S., relating to participation by the corporation in state group health insurance and prescription drug coverage programs; providing for participation by the corporation board of directors in said programs; providing for a fee; providing conditions for submission of proposals and for review thereof; providing terms and conditions for enrollment; providing for applicability; providing for rules; requiring certain letters and rulings with regard to the State Group Self-Insurance Program; requiring notification to the Legislature; providing a contingent effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 73—A bill to be entitled An act relating to state government; creating the "Florida Customer Service Standards Act"; providing definitions; specifying measures that state departments are directed to implement with respect to interaction with their customers; providing requirements regarding operating hours; providing that failure to comply with the act does not constitute a cause of action; providing exceptions; providing an effective date.

—was read the second time by title.

Representative(s) Smith and Frankel offered the following:

(Amendment Bar Code: 940437)

Amendment 1—On page 2, line 12 of the bill

after the word "Commission", insert: *and the Legislature*

Rep. Frankel moved the adoption of the amendment, which failed of adoption.

Representative(s) Ausley offered the following:

(Amendment Bar Code: 034353)

Amendment 2—On page 3, line 18, of the bill

after "*service*" insert: *and request sufficient funding and positions to meet such outline or goal*

Rep. Ausley moved the adoption of the amendment, which failed of adoption.

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

CS/HB 949—A bill to be entitled An act relating to local government regulation of water or wastewater utilities; amending s. 367.171, F.S.; providing for regulation of certain utilities by certain counties; prohibiting exercise of eminent domain by certain governmental entities under certain circumstances; providing an effective date.

—was read the second time by title.

The Council for Ready Infrastructure offered the following:

(Amendment Bar Code: 875167)

Amendment 1—On page 1, line 29, of the bill

after "health" insert: *, the environment,*

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

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

HB 917—A bill to be entitled An act relating to Palm Beach County; amending chapter 90-445, Laws of Florida, as amended; providing for the uniform implementation, interpretation, and enforcement of building code requirements pursuant to the Florida Building Code; providing and amending definitions; providing for enforcement; providing for repeal of conflicting laws; providing for interpretation of codes and revision; deleting provisions relating to appointments; providing for authority for building code amendments; providing for amending provisions for product and system evaluation, including application fees and revocation and renewal of product and system compliance; providing severability; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 094599)

Amendment 1—On page 1, lines 22-23,
remove from the bill: said lines

and insert in lieu thereof:

Section 1. Notwithstanding section 136 of chapter 2000-141, Laws of Florida, chapter 90-445, Laws of Florida, is reenacted and amended to read:

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

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 514373)

Amendment 2—On page 7, lines 13-25,
remove from the bill: all of said lines

and insert in lieu thereof:

(1) *The board shall have the authority to evaluate* ~~ADMINISTRATION. Palm Beach County and each unit of local government within Palm Beach County shall have the option to direct inquiries concerning~~ new or existing products or systems, *in accordance with section 553.842, Florida Statutes, and the Florida Building Commission's rules adopted thereunder* ~~to the board. The board shall act as a clearing house for new or different products or systems, by evaluating them based on the current model codes and any amendments or revisions, being recommended for adoption by the board~~. The board *is authorized to* ~~may~~ issue evaluation and compliance reports for products and systems found to be in compliance*, as provided by policies established by the board*. Recommendations *and compliance reports* of the board concerning new *and existing* products or systems shall be advisory in nature *for the municipalities within Palm Beach County and shall not form the basis of a local or statewide approval pursuant to section 553.842, Florida Statutes*.

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

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

HB 645—A bill to be entitled An act relating to alcoholic beverages; amending s. 561.501, F.S.; providing an exemption from the surcharge on alcoholic beverages for specified nonprofit organizations; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

On motion by Rep. Goodlette, the rules were waived and the House moved to the order of—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1118, as amended, and requests the concurrence of the House, and in the event the House refuses to concur, the Senate requests that a conference committee be appointed to work out the differences between the two houses.

Faye W. Blanton, Secretary

By the Committees on Ethics and Elections, Ethics and Elections and Senator Posey and others—

CS for SB 1118—A bill to be entitled An act relating to elections; creating the Florida Election Reform Act of 2001; amending s. 97.021, F.S.; revising definitions; amending ss. 98.471, 100.341, 100.361, F.S.; removing provisions relating to voting systems that use voting machines or paper ballots; amending s. 101.015, F.S.; requiring the Division of Elections to review the voting systems certification standards to ensure that new technologies are available and appropriately certified for use; amending s. 101.151, F.S.; modifying specifications for ballots; requiring the Department of State to adopt rules prescribing uniform ballots; amending ss. 101.21, 101.24, 101.292, 101.341, 101.43, 101.49, 101.58, 101.71, 101.75, 104.30, 138.05, F.S.; removing provisions relating to voting machines and updating references, to conform; amending s. 101.5603, F.S.; deleting references to punchcard marking and voting devices; amending s. 101.5604, F.S.; providing for the use of precinct tabulation electronic or electromechanical voting systems in each county; amending s. 101.5606, F.S.; providing additional requirements for electronic and electromechanical voting systems; prohibiting the use of punchcard voting systems; amending s. 101.5614, F.S.; removing references to canvassing returns at central or regional locations, to conform; creating s. 101.595, F.S.; requiring supervisors of elections and the Department of State to report on overvotes and undervotes following the general election; amending s. 103.101, F.S., relating to the form of the presidential preference primary, to conform; amending s. 582.18, F.S., relating to the election of district supervisors; conforming a cross-reference; repealing ss. 100.071, 101.141, 101.181, 101.191, 101.251, 101.5609, F.S., relating to the specification and form of ballots, to conform; repealing ss. 101.011, 101.27, 101.28, 101.29, 101.32, 101.33, 101.34, 101.35, 101.36, 101.37, 101.38, 101.39, 101.40, 101.445, 101.45, 101.46, 101.47, 101.54, 101.55, 101.56, 102.012(7), F.S., relating to voting machines, to conform; amending s. 97.021, F.S.; revising the definitions of the terms "absent elector" and "primary election"; providing additional definitions; creating s. 101.048, F.S.; providing procedures for voting and counting provisional ballots; amending s. 101.045, F.S.; requiring verification of an elector's eligibility if the elector's name is not on the precinct register; amending s. 101.5614, F.S.; providing for the return of provisional ballots to the supervisor of elections; providing for the canvass of provisional ballots; clarifying the standard for counting votes on spoiled ballots; amending s. 101.69, F.S.; allowing a voter who has requested an absentee ballot and who decides to vote at the polls on election day to vote a provisional ballot, if the absentee ballot is not returned; amending s. 102.111, F.S.; changing the composition of the Elections Canvassing Commission; revising deadlines for county returns; amending s. 102.112, F.S.; revising deadlines for certification of election results; requiring the acceptance of late-filed election returns in certain circumstances; increasing the fine for filing late-filed election returns; amending s. 102.141, F.S.; requiring the county canvassing board to provide public notice of time and place of the canvass of provisional ballots; modifying deadlines for submitting unofficial returns; revising requirements for an automatic machine recount; amending s. 102.166, F.S.; substantially modifying standards and procedures for manual recounts; amending s. 102.168, F.S.; revising the grounds for an election contest; creating s. 102.135, F.S.; prohibiting a member of the Elections Canvassing Commission or a member of the county canvassing board from rendering a post-election decision that may affect the outcome of any race in which the member publicly endorsed or solicited contributions; creating s. 97.0555, F.S.; providing for registration of certain military and overseas persons; requiring the Department of State to adopt rules specifying eligibility; creating s. 101.6951, F.S.; providing for a state write-in absentee ballot for overseas voters; creating s. 101.6952, F.S.; providing for absentee ballots for overseas voters; creating s. 101.697, F.S.; providing for absentee ballot requests and voting via electronic transmission by overseas voters under certain circumstances; creating s. 101.698, F.S.; authorizing the Elections Canvassing Commission to adopt emergency rules during crises to facilitate absentee voting; amending s. 101.62, F.S.; modifying information on absentee ballot requests; amending s. 101.64, F.S.; modifying absentee ballot certificates; amending s. 101.65, F.S.; modifying instructions to absent electors; amending s. 101.657, F.S., relating to voting absentee ballots; conforming provisions; amending s. 101.68, F.S.; modifying information that must be included on an absentee ballot; authorizing the processing of absentee ballots through tabulations for a specified period before the election; amending s. 104.047, F.S.; deleting a prohibition against persons witnessing more than five ballots in an election and a prohibition against returning more than two ballots in an election, and the penalties therefor; repealing ss. 101.647, 101.685, F.S., relating to returning absentee ballots and absentee ballot coordinators; amending s. 98.255, F.S.; providing for voter education; amending s. 101.031, F.S.; providing for a Voter's Bill of Rights and Responsibilities; providing responsibilities of supervisors of elections; amending s. 101.131, F.S.; eliminating a requirement to call out names of voters; creating s. 102.014, F.S.; providing for pollworker

recruitment and training; repealing s. 102.012(8) and (9), relating to pollworker training, to conform; amending s. 102.021, F.S.; to correct a cross-reference; amending s. 97.073, F.S.; revising procedures to be followed when a voter registration application is incomplete; amending s. 98.015, F.S.; providing for the nonpartisan election of supervisors of elections; amending s. 105.031, F.S.; requiring candidates for supervisor of elections to pay a qualifying fee, subscribe to an oath, and file certain items in order to qualify for election; amending s. 105.035, F.S.; providing alternative procedures for candidates for supervisor of elections to qualify for election; amending s. 105.041, F.S.; providing for the form of the ballot for candidates for supervisor of elections; providing for write-in candidates for supervisor of elections; amending s. 105.051, F.S.; providing for determination of election to office of candidates for supervisor of elections; amending s. 105.061, F.S.; providing that supervisors of elections are to be elected by vote of the qualified electors of the county; amending s. 105.08, F.S.; providing requirements for candidates for supervisor of elections with respect to campaign contributions and expenses and their reporting; repealing s. 100.091, F.S., to eliminate the second primary election; repealing s. 100.096, F.S., relating to the holding of special elections in conjunction with the second primary election, to conform; amending ss. 97.055, 97.071, 97.1031, 98.081, F.S., relating to restrictions on changing party affiliation between primary elections, to conform; amending ss. 99.061, 99.095, F.S., relating to qualifying for nomination or election to office, to conform; amending s. 99.063, F.S.; adjusting the date to designate a Lieutenant Governor running mate, to conform; amending ss. 99.103, 100.061, 100.081, 100.111, 100.141, 101.252, 101.62, 102.168, 103.021, 103.022, 103.091, 105.031, 105.041, 105.051, 106.07, 106.08, 106.29, F.S.; revising references, to conform to the elimination of the second primary election; amending s. 236.25, F.S.; allowing certain school districts to levy, by referendum, additional district school taxes; providing limitations on the uses of the resulting revenues; amending s. 236.31, F.S.; providing for millage elections pursuant to s. 236.25, F.S.; amending s. 236.32, F.S.; revising the procedures for conducting school district millage elections; amending s. 106.141, F.S.; increasing the amount that may be transferred to an office account; amending s. 106.15, F.S.; expanding prohibition against candidates using state employees' services during working hours to include all government employees; amending s. 97.041, F.S.; providing for automatic restoration of former felons' right to vote following completion and satisfaction of sentence of incarceration and community supervision; providing conditions on such automatic restoration; amending ss. 97.052, 97.053, F.S., to conform; providing an appropriation for the design of a statewide voter registration database; providing requirements for the database; repealing s. 98.0975, F.S., relating to the central voter file maintained by the Division of Elections; providing an appropriation for voter education and pollworker training; providing for the appropriation from the General Appropriations Act to be used to implement the provisions of the act; providing for study of elections process in multiple time zones; providing effective dates.

—was read the first time by title.

REPRESENTATIVE BALL IN THE CHAIR

THE SPEAKER IN THE CHAIR

On motion by Rep. Goodlette, the rules were waived and the bill was read the second time by title.

Representative(s) Goodlette offered the following:

(Amendment Bar Code: 845345)

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

and insert in lieu thereof:

Section 1. Subsections (11) through (20) and (22) through (30) of section 97.021, Florida Statutes, are renumbered as subsections (12) through (21) and (24) through (32), respectively, present subsection (21) is renumbered as subsection (22) and amended, and new subsections (11) and (23) are added to said section, to read:

97.021 Definitions.—For the purposes of this code, except where the context clearly indicates otherwise, the term:

(11) "Error in the vote tabulation" means the failure of a vote tabulation system to count a vote for a candidate when the voter's intent is clearly ascertainable.

(22)~~(21)~~ "Primary election" means an election held preceding the general election for the purpose of nominating a party nominee to be voted for in the general election to fill a national, state, county, or district office. The ~~first~~ primary *election* is a nomination or elimination election~~; the second primary is a nominating election only~~.

(23) "Provisional ballot" means a ballot issued to a voter by the election board at the polling place on election day for one of the following reasons:

(a) The voter's name does not appear on the precinct register and verification of the voter's eligibility cannot be determined.

(b) There is an indication on the precinct register that the voter has requested an absentee ballot and there is no indication whether the voter has returned the absentee ballot.

Section 2. Section 100.061, Florida Statutes, is amended to read:

100.061 ~~First~~ Primary election.—In each year in which a general election is held, a ~~first~~ primary election for nomination of candidates of political parties shall be held on the *second* Tuesday *in September* ~~9 weeks prior to the general election~~. *The* ~~Each~~ candidate receiving *the highest number* ~~a majority~~ of the votes cast in each contest in the ~~first~~ primary election shall be declared nominated for such office. *If two or more persons receive an equal and highest number of votes for the same office, such persons shall draw lots to determine who shall receive the nomination.* ~~A second primary election shall be held as provided by s. 100.091 in every contest in which a candidate does not receive a majority.~~

Section 3. *Sections 100.091 and 100.096, Florida Statutes, are repealed.*

Section 4. Section 10.1008, Florida Statutes, is amended to read:

10.1008 Applicability.—This joint resolution applies with respect to the qualification, nomination, and election of members of the Legislature in the *primary* ~~primaries~~ and general *elections* ~~election~~ to be held in 1992 and thereafter.

Section 5. Subsection (1) of section 97.055, Florida Statutes, is amended to read:

97.055 Registration books; when closed for an election.—

(1) The registration books must be closed on the 29th day before each election and must remain closed until after that election. If an election is called and there are fewer than 29 days before that election, the registration books must be closed immediately. When the registration books are closed for an election, voter registration and party changes must be accepted but only for the purpose of subsequent elections. ~~However, party changes received between the book-closing date of the first primary election and the date of the second primary election are not effective until after the second primary election.~~

Section 6. Subsection (3) of section 97.071, Florida Statutes, is amended to read:

97.071 Registration identification card.—

(3) In the case of a change of name, address, or party affiliation, the supervisor must issue the voter a new registration identification card. ~~However, a registration identification card indicating a party affiliation change made between the book-closing date for the first primary election and the date of the second primary election may not be issued until after the second primary election.~~

Section 7. Subsection (3) of section 97.1031, Florida Statutes, is amended to read:

97.1031 Notice of change of residence within the same county, change of name, or change of party.—

(3) When an elector seeks to change party affiliation, the elector must provide a signed, written notification of such intent to the supervisor and obtain a registration identification card reflecting the new party affiliation~~, subject to the issuance restriction in s. 97.071(3)~~.

Section 8. Subsection (1) of section 98.081, Florida Statutes, is amended to read:

98.081 Names removed from registration books; restrictions on reregistering; recordkeeping; restoration of erroneously or illegally removed names.—

(1) Any person who requested that his or her name be removed from the registration books between the book-closing date of the ~~first~~ primary *election* and the date of the *subsequent general election* ~~second primary~~ may not register in a different political party *during the period* ~~until~~ after the date of the ~~second~~ primary election *and before the date of the subsequent general election*.

Section 9. Subsections (1), (2), and (8) of section 99.061, Florida Statutes, are amended to read:

99.061 Method of qualifying for nomination or election to federal, state, county, or district office.—

(1) The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a federal, state, or multicounty district office, other than election to a judicial office as defined in chapter 105 or the office of school board member, shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the Department of State, or qualify by the alternative method with the Department of State, at any time after noon of the 1st day for qualifying, which shall be as follows: the 120th day prior to the ~~first~~ primary *election*, but not later than noon of the 116th day prior to the date of the ~~first~~ primary *election*, for persons seeking to qualify for nomination or election to federal office; and noon of the 50th day prior to the ~~first~~ primary *election*, but not later than noon of the 46th day prior to the date of the ~~first~~ primary *election*, for persons seeking to qualify for nomination or election to a state or multicounty district office.

(2) The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a county office, or district or special district office not covered by subsection (1), shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the supervisor of elections of the county, or shall qualify by the alternative method with the supervisor of elections, at any time after noon of the 1st day for qualifying, which shall be the 50th day prior to the ~~first~~ primary *election* or special district election, but not later than noon of the 46th day prior to the date of the ~~first~~ primary *election* or special district election. *When* ~~However, if~~ a special district election is held at the same time as the ~~second primary or~~ general election, qualifying shall *also* be the 50th day prior to the ~~first~~ primary *election*, but not later than noon of the 46th day prior to the date of the ~~first~~ primary *election*. Within 30 days after the closing of qualifying time, the supervisor of elections shall remit to the secretary of the state executive committee of the political party to which the candidate belongs the amount of the filing fee, two-thirds of which shall be used to promote the candidacy of candidates for county offices and the candidacy of members of the Legislature.

(8) Notwithstanding the qualifying period prescribed by this section, in each year in which the Legislature apportions the state, the qualifying period for persons seeking to qualify for nomination or election to federal office shall be between noon of the 57th day prior to the ~~first~~ primary *election*, but not later than noon of the 53rd day prior to the ~~first~~ primary *election*.

Section 10. Subsections (1), (2), and (4) of section 99.063, Florida Statutes, are amended to read:

99.063 Candidates for Governor and Lieutenant Governor.—

(1) No later than 5 p.m. of the *9th* ~~6th~~ day following the ~~second~~ primary election, each candidate for Governor shall designate a Lieutenant Governor as a running mate. Such designation must be made in writing to the Department of State.

(2) No later than 5 p.m. of the *9th* ~~6th~~ day following the ~~second~~ primary election, each designated candidate for Lieutenant Governor shall file with the Department of State:

(a) The candidate's oath required by s. 99.021, which must contain the name of the candidate as it is to appear on the ballot; the office sought; and the signature of the candidate, duly acknowledged.

(b) The loyalty oath required by s. 876.05, signed by the candidate and duly acknowledged.

(c) If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1)(b).

(d) The full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution.

(4) In order to have the name of the candidate for Lieutenant Governor printed on the ~~first or second~~ primary election ballot, a candidate for Governor participating in the primary must designate the candidate for Lieutenant Governor, and the designated candidate must qualify no later than the end of the qualifying period specified in s. 99.061. If the candidate for Lieutenant Governor has not been designated and has not qualified by the end of the qualifying period specified in s. 99.061, the phrase "Not Yet Designated" must be included in lieu of the candidate's name on *the* primary election *ballot* ~~ballots and on advance absentee ballots for the general election~~.

Section 11. Subsection (1) of section 99.095, Florida Statutes, is amended to read:

99.095 Alternative method of qualifying.—

(1) A person seeking to qualify for nomination to any office may qualify to have his or her name placed on the ballot for the ~~first~~ primary election by means of the petitioning process prescribed in this section. A person qualifying by this alternative method shall not be required to pay the qualifying fee or party assessment required by this chapter. A person using this petitioning process shall file an oath with the officer before whom the candidate would qualify for the office stating that he or she intends to qualify by this alternative method for the office sought. If the person is running for an office which will be grouped on the ballot with two or more similar offices to be filled at the same election, the candidate must indicate in his or her oath for which group or district office he or she is running. The oath shall be filed at any time after the first Tuesday after the first Monday in January of the year in which the ~~first~~ primary *election* is held, but prior to the 21st day preceding the first day of the qualifying period for the office sought. The Department of State shall prescribe the form to be used in administering and filing such oath. No signatures shall be obtained by a candidate on any nominating petition until the candidate has filed the oath required in this section. If the person is running for an office which will be grouped on the ballot with two or more similar offices to be filled at the same election and the petition does not indicate the group or district office for which the person is running, the signatures obtained on such petition will not be counted.

Section 12. Section 99.103, Florida Statutes, is amended to read:

99.103 Department of State to remit part of filing fees and party assessments of candidates to state executive committee.—

(1) If more than three-fourths of the full authorized membership of the state executive committee of any party was elected at the last previous election for such members and if such party is declared by the Department of State to have recorded on the registration books of the counties, as of the first Tuesday after the first Monday in January prior to the ~~first~~ primary *election* in general election years, 5 percent of the total registration of such counties when added together, such committee shall receive, for the purpose of meeting its expenses, all filing fees collected by the Department of State from its candidates less an amount equal to 15 percent of the filing fees, which amount the Department of State shall deposit in the General Revenue Fund of the state.

(2) Not later than 20 days after the close of qualifying in even-numbered years, the Department of State shall remit 95 percent of all filing fees, less the amount deposited in general revenue pursuant to subsection (1), or party assessments that may have been collected by the department to the respective state executive committees of the parties complying with subsection (1). Party assessments collected by the Department of State shall be remitted to the appropriate state executive committee, irrespective of other requirements of this section, provided such committee is duly organized under the provisions of chapter 103. The remainder of filing fees or party assessments collected by the Department of State shall be remitted to the appropriate state executive committees not later than the date of the ~~first~~ primary *election*.

Section 13. Subsection (2) of section 100.071, Florida Statutes, is amended to read:

100.071 Grouping of candidates on primary *election ballot* ~~ballots~~.—

(2) Each nominee of a political party chosen in the *primary election* ~~primaries~~ shall appear on the general election ballot in the same numbered group or district as on the primary election ballot.

Section 14. Section 100.081, Florida Statutes, is amended to read:

100.081 ~~Conducting primary elections;~~ Nomination of county commissioners *at primary election*.—The primary *election* ~~elections~~ shall provide for the nomination of county commissioners by the qualified electors of such county at the time and place set for voting on other county officers.

Section 15. Paragraph (c) of subsection (1), subsection (3), paragraph (a) of subsection (4), and subsection (5) of section 100.111, Florida Statutes, are amended to read:

100.111 Filling vacancy.—

(1)

(c) If such a vacancy occurs prior to the ~~first~~ primary *election* but on or after the first day set by law for qualifying, the Secretary of State shall set dates for qualifying for the unexpired portion of the term of such office. Any person seeking nomination or election to the unexpired portion of the term shall qualify within the time set by the Secretary of State. If time does not permit party nominations to be made in conjunction with the ~~first and second~~ primary *election* ~~elections~~, the Governor may call a special primary election~~, and, if necessary, a second special primary election,~~ to select party nominees for the unexpired portion of such term.

(3) Whenever there is a vacancy for which a special election is required pursuant to s. 100.101(1)-(4), the Governor, after consultation with the Secretary of State, shall fix the date of a special ~~first~~ primary election~~, a special second primary election,~~ and a special election. Nominees of political parties other than minor political parties shall be chosen under the primary laws of this state in the special primary *election* ~~elections~~ to become candidates in the special election. Prior to setting the special election dates, the Governor shall consider any upcoming elections in the jurisdiction where the special election will be held. The dates fixed by the Governor shall be specific days certain and shall not be established by the happening of a condition or stated in the alternative. The dates fixed shall provide a minimum of 2 weeks between each election. In the event a vacancy occurs in the office of state senator or member of the House of Representatives when the Legislature is in regular ~~legislative~~ session, the minimum times prescribed by this subsection may be waived upon concurrence of the Governor, the Speaker of the House of Representatives, and the President of the Senate. If a vacancy occurs in the office of state senator and no session of the Legislature is scheduled to be held prior to the next general election, the Governor may fix the dates for *the* ~~any~~ special primary *election* and ~~for~~ the special election to coincide with the dates of the ~~first and second~~ primary *election* and *the* general election. If a vacancy in office occurs in any district in the state Senate or House of Representatives or in any congressional district, and no session of the Legislature, or session of Congress if the vacancy is in a congressional district, is scheduled to be held during the unexpired portion of the term, the Governor is not required to call a special election to fill such vacancy.

(a) The dates for candidates to qualify in such special election or special primary election shall be fixed by the Department of State, and candidates shall qualify not later than noon of the last day so fixed. The dates fixed for qualifying shall allow a minimum of 14 days between the last day of qualifying and the special ~~first~~ primary election.

(b) The filing of campaign expense statements by candidates in such special *primary election* ~~elections~~ or special *election* ~~primaries~~ and by committees making contributions or expenditures to influence the results of such special *primary election* ~~primaries~~ or special *election* ~~elections~~ shall be not later than such dates as shall be fixed by the Department of State, and in fixing such dates the Department of State shall take into consideration and be governed by the practical time limitations.

(c) The dates for a candidate to qualify by the alternative method in such special primary *election* or special election shall be fixed by the Department of State. In fixing such dates the Department of State shall take into consideration and be governed by the practical time limitations. Any candidate seeking to qualify by the alternative method in a special primary election shall obtain 25 percent of the signatures required by s. 99.095, s. 99.0955, or s. 99.096, as applicable.

(d) The qualifying fees and party assessments of such candidates as may qualify shall be the same as collected for the same office at the last previous primary for that office. The party assessment shall be paid to the appropriate executive committee of the political party to which the candidate belongs.

(e) Each county canvassing board shall make as speedy a return of the *results* ~~result~~ of such special *primary election* ~~elections~~ and *special election* ~~primaries~~ as time will permit, and the Elections Canvassing Commission likewise shall make as speedy a canvass and declaration of the nominees as time will permit.

(4)(a) In the event that death, resignation, withdrawal, removal, or any other cause or event should cause a party to have a vacancy in nomination which leaves no candidate for an office from such party, the Governor shall, after conferring with the Secretary of State, call a special primary election ~~and, if necessary, a second special primary election~~ to select for such office a nominee of such political party. The dates on which candidates may qualify for such special primary election shall be fixed by the Department of State, and the candidates shall qualify no later than noon of the last day so fixed. The filing of campaign expense statements by candidates in *a* special *primary election* ~~primaries~~ shall not be later than such dates as shall be fixed by the Department of State. In fixing such dates, the Department of State shall take into consideration and be governed by the practical time limitations. The qualifying fees and party assessment of such candidates as may qualify shall be the same as collected for the same office at the last previous primary for that office. Each county canvassing board shall make as speedy a return of the results of such *special primary election* ~~primaries~~ as time will permit, and the Elections Canvassing Commission shall likewise make as speedy a canvass and declaration of the nominees as time will permit.

(5) In the event of unforeseeable circumstances not contemplated in these general election laws concerning the calling and holding of *a*

special primary *election* ~~elections~~ and *a* special *election* ~~elections~~ resulting from court order or other unpredictable circumstances, the Department of State shall have the authority to provide for the conduct of orderly elections.

Section 16. Subsection (2) of section 100.141, Florida Statutes, is amended to read:

100.141 Notice of special election to fill any vacancy in office or nomination.—

(2) The Department of State shall prepare a notice stating what offices and vacancies are to be filled in the special election, the *dates* ~~date~~ set for *the* ~~each~~ special primary election and the special election, the dates fixed for qualifying for office, the dates fixed for qualifying by the alternative method, and the dates fixed for filing campaign expense statements.

Section 17. Subsection (1) of section 101.251, Florida Statutes, is amended to read:

101.251 Information which supervisor of elections must print on ballots.—

(1) The supervisor of elections of each county shall print, on the general election ballots to be used in such county, the names of candidates nominated by primary election or special primary *election* ~~elections~~ or selected by the appropriate executive committee of any political party.

Section 18. Subsection (2) of section 101.252, Florida Statutes, is amended to read:

101.252 Candidates entitled to have names printed on certain ballots; exception.—

(2) Any candidate for party executive committee member who has qualified as prescribed by law is entitled to have his or her name printed on the ~~first~~ primary *election* ballot. However, when there is only one candidate of any political party qualified for such an office, the name of the candidate shall not be printed on the ~~first~~ primary *election* ballot, and such candidate shall be declared elected to the state or county executive committee.

Section 19. Paragraph (a) of subsection (4) and subsection (7) of section 101.62, Florida Statutes, are amended to read:

101.62 Request for absentee ballots.—

(4)(a) To each absent qualified elector overseas who has requested an absentee ballot, the supervisor of elections shall, not fewer than 35 days before the ~~first~~ primary election *and not fewer than 45 days before the general election*, mail an absentee ballot. ~~Not fewer than 45 days before the second primary and general election, the supervisor of elections shall mail an advance absentee ballot to those persons requesting ballots for such elections. The advance absentee ballot for the second primary shall be the same as the first primary absentee ballot as to the names of candidates, except that for any offices where there are only two candidates, those offices and all political party executive committee offices shall be omitted. Except as provided in s. 99.063(4), the advance absentee ballot for the general election shall be as specified in s. 101.151, except that in the case of candidates of political parties where nominations were not made in the first primary, the names of the candidates placing first and second in the first primary election shall be printed on the advance absentee ballot. The advance absentee ballot or advance absentee ballot information booklet shall be of a different color for each election and also a different color from the absentee ballots for the first primary, second primary, and general election. The supervisor shall mail an advance absentee ballot for the second primary and general election to each qualified absent elector for whom a request is received until the absentee ballots are printed. The supervisor shall enclose with the advance second primary absentee ballot and advance general election absentee ballot an explanation stating that the absentee ballot for the election will be mailed as soon as it is printed; and, if both the advance absentee ballot and the absentee ballot for the election are returned in time to be counted, only the absentee ballot will be counted.~~

(7)~~(a)~~ For the purposes of this section, "absent qualified elector overseas" means:

(a)~~1.~~ Members of the Armed Forces while in the active service who are permanent residents of the state and are temporarily residing outside the territorial limits of the United States and the District of Columbia;

(b)~~2.~~ Members of the Merchant Marine of the United States who are permanent residents of the state and are temporarily residing outside the territorial limits of the United States and the District of Columbia; and

(c)~~3.~~ Other citizens of the United States who are permanent residents of the state and are temporarily residing outside the territorial limits of the United States and the District of Columbia,

who are qualified and registered as provided by law.

(8)~~(b)~~ Notwithstanding any other provision of law to the contrary, there shall appear on the ballots sent to absent qualified electors overseas, in addition to the names of the candidates for each office, the political party affiliation of each candidate for each office, other than a nonpartisan office.

~~(c) With respect to marked ballots mailed by absent qualified electors overseas, only those ballots mailed with an APO, FPO, or foreign postmark shall be considered valid.~~

Section 20. Subsection (3) and paragraph (b) of subsection (4) of section 103.021, Florida Statutes, are amended to read:

103.021 Nomination for presidential electors.—Candidates for presidential electors shall be nominated in the following manner:

(3) Candidates for President and Vice President with no party affiliation may have their names printed on the general election ballots if a petition is signed by 1 percent of the registered electors of this state, as shown by the compilation by the Department of State for the last preceding general election. A separate petition from each county for which signatures are solicited shall be submitted to the supervisor of elections of the respective county no later than July 15 of each presidential election year. The supervisor shall check the names and, on or before the date of the ~~first~~ primary *election*, shall certify the number shown as registered electors of the county. The supervisor shall be paid by the person requesting the certification the cost of checking the petitions as prescribed in s. 99.097. The supervisor shall then forward the certificate to the Department of State which shall determine whether or not the percentage factor required in this section has been met. When the percentage factor required in this section has been met, the Department of State shall order the names of the candidates for whom the petition was circulated to be included on the ballot and shall permit the required number of persons to be certified as electors in the same manner as party candidates.

(4)

(b) A minor party that is not affiliated with a national party holding a national convention to nominate candidates for President and Vice President of the United States may have the names of its candidates for President and Vice President printed on the general election ballot if a petition is signed by 1 percent of the registered electors of this state, as shown by the compilation by the Department of State for the preceding general election. A separate petition from each county for which signatures are solicited shall be submitted to the supervisors of elections of the respective county no later than July 15 of each presidential election year. The supervisor shall check the names and, on or before the date of the ~~first~~ primary *election*, shall certify the number shown as registered electors of the county. The supervisor shall be paid by the person requesting the certification the cost of checking the petitions as prescribed in s. 99.097. The supervisor shall then forward the certificate to the Department of State, which shall determine whether or not the

percentage factor required in this section has been met. When the percentage factor required in this section has been met, the Department of State shall order the names of the candidates for whom the petition was circulated to be included on the ballot and shall permit the required number of persons to be certified as electors in the same manner as other party candidates.

Section 21. Section 103.022, Florida Statutes, is amended to read:

103.022 Write-in candidates for President and Vice President.—Persons seeking to qualify for election as write-in candidates for President and Vice President of the United States may have a blank space provided on the general election ballot for their names to be written in by filing an oath with the Department of State at any time after the 57th day, but before noon of the 49th day, prior to the date of the ~~first~~ primary election in the year in which a presidential election is held. The Department of State shall prescribe the form to be used in administering the oath. The candidates shall file with the department a certificate naming the required number of persons to serve as electors. Such write-in candidates shall not be entitled to have their names on the ballot.

Section 22. Subsection (4) of section 103.091, Florida Statutes, is amended to read:

103.091 Political parties.—

(4) Any political party other than a minor political party may by rule provide for the membership of its state or county executive committee to be elected for 4-year terms at the ~~first~~ primary election in each year a presidential election is held. The terms shall commence on the first day of the month following each presidential general election; but the names of candidates for political party offices shall not be placed on the ballot at any other election. The results of such election shall be determined by a plurality of the votes cast. In such event, electors seeking to qualify for such office shall do so with the Department of State or supervisor of elections not earlier than noon of the 57th day, or later than noon of the 53rd day, preceding the ~~first~~ primary election. The outgoing chair of each county executive committee shall, within 30 days after the committee members take office, hold an organizational meeting of all newly elected members for the purpose of electing officers. The chair of each state executive committee shall, within 60 days after the committee members take office, hold an organizational meeting of all newly elected members for the purpose of electing officers.

Section 23. Subsection (1) of section 105.031, Florida Statutes, is amended to read:

105.031 Qualification; filing fee; candidate's oath; items required to be filed.—

(1) TIME OF QUALIFYING.—Except for candidates for judicial office, nonpartisan candidates for multicounty office shall qualify with the Division of Elections of the Department of State and nonpartisan candidates for countywide or less than countywide office shall qualify with the supervisor of elections. Candidates for judicial office other than the office of county court judge shall qualify with the Division of Elections of the Department of State, and candidates for the office of county court judge shall qualify with the supervisor of elections of the county. Candidates shall qualify no earlier than noon of the 50th day, and no later than noon of the 46th day, before the ~~first~~ primary election. Filing shall be on forms provided for that purpose by the Division of Elections and furnished by the appropriate qualifying officer. Any person seeking to qualify by the alternative method, as set forth in s. 105.035, if the person has submitted the necessary petitions by the required deadline and is notified after the fifth day prior to the last day for qualifying that the required number of signatures has been obtained, shall be entitled to subscribe to the candidate's oath and file the qualifying papers at any time within 5 days from the date he or she is notified that the necessary number of signatures has been obtained. Any person other than a write-in candidate who qualifies within the time prescribed in this subsection shall be entitled to have his or her name printed on the ballot.

Section 24. Subsection (1) and paragraph (b) of subsection (2) of section 105.041, Florida Statutes, are amended to read:

105.041 Form of ballot.—

(1) BALLOTS.—The names of candidates for judicial office and candidates for the office of school board member which appear on the ballot at the ~~first~~ primary election shall either be grouped together on a separate portion of the ballot or on a separate ballot. The names of candidates for election to judicial office and candidates for the office of school board member which appear on the ballot at the general election and the names of justices and judges seeking retention to office shall be grouped together on a separate portion of the general election ballot.

(2) LISTING OF CANDIDATES.—

(b)1. The names of candidates for the office of circuit judge shall be listed on the ~~first~~ primary *election* ballot in the order determined by lot conducted by the director of the Division of Elections of the Department of State after the close of the qualifying period.

2. Candidates who have secured a position on the general election ballot, after having survived elimination at the ~~first~~ primary *election*, shall have their names listed in the same order as on the ~~first~~ primary *election* ballot, notwithstanding the elimination of any intervening names as a result of the ~~first~~ primary *election*.

Section 25. Paragraph (b) of subsection (1) of section 105.051, Florida Statutes, is amended to read:

105.051 Determination of election or retention to office.—

(1) ELECTION.—In circuits and counties holding elections:

(b) If two or more candidates, neither of whom is a write-in candidate, qualify for such an office, the names of those candidates shall be placed on the ballot at the ~~first~~ primary election. If any candidate for such office receives a majority of the votes cast for such office in the ~~first~~ primary election, the name of the candidate who receives such majority shall not appear on any other ballot unless a write-in candidate has qualified for such office. An unopposed candidate shall be deemed to have voted for himself or herself at the general election. If no candidate for such office receives a majority of the votes cast for such office in the ~~first~~ primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot. If more than two candidates receive an equal and highest number of votes, the name of each candidate receiving an equal and highest number of votes shall be placed on the general election ballot. In any contest in which there is a tie for second place and the candidate placing first did not receive a majority of the votes cast for such office, the name of the candidate placing first and the name of each candidate tying for second shall be placed on the general election ballot.

Section 26. Paragraphs (a) and (b) of subsection (1) of section 106.07, Florida Statutes, are amended to read:

106.07 Reports; certification and filing.—

(1) Each campaign treasurer designated by a candidate or political committee pursuant to s. 106.021 shall file regular reports of all contributions received, and all expenditures made, by or on behalf of such candidate or political committee. Reports shall be filed on the 10th day following the end of each calendar quarter from the time the campaign treasurer is appointed, except that, if the 10th day following the end of a calendar quarter occurs on a Saturday, Sunday, or legal holiday, the report shall be filed on the next following day which is not a Saturday, Sunday, or legal holiday. Quarterly reports shall include all contributions received and expenditures made during the calendar quarter which have not otherwise been reported pursuant to this section.

(a) Except as provided in paragraph (b), following the last day of qualifying for office, the reports shall be filed on the 32nd, 18th, and 4th days immediately preceding the ~~first~~ primary *election* and on the 18th and 4th days immediately preceding the ~~second primary and~~ general

election, for a candidate who is opposed in seeking nomination or election to any office, for a political committee, or for a committee of continuous existence.

(b) Following the last day of qualifying for office, any statewide candidate who has requested to receive contributions from the Election Campaign Financing Trust Fund or any statewide candidate in a race with a candidate who has requested to receive contributions from the trust fund shall file reports on the 4th, 11th, 18th, 25th, and 32nd days prior to the ~~first~~ primary and general elections~~, and on the 4th, 11th, 18th, and 25th days prior to the second primary~~.

Section 27. Subsection (1) of section 106.08, Florida Statutes, is amended to read:

106.08 Contributions; limitations on.—

(1)(a) Except for political parties, no person, political committee, or committee of continuous existence may, in any election, make contributions in excess of *$1,000* ~~$500~~ to any candidate for election to or retention in office or to any political committee supporting or opposing one or more candidates. Candidates for the offices of Governor and Lieutenant Governor on the same ticket are considered a single candidate for the purpose of this section.

(b)1. The contribution limits provided in this subsection do not apply to contributions made by a state or county executive committee of a political party regulated by chapter 103 or to amounts contributed by a candidate to his or her own campaign.

2. Notwithstanding the limits provided in this subsection, an unemancipated child under the age of 18 years of age may not make a contribution in excess of $100 to any candidate or to any political committee supporting one or more candidates.

(c) The contribution limits of this subsection apply to each election. For purposes of this subsection, the ~~first~~ primary *election*~~, second primary,~~ and *the* general election are separate elections so long as the candidate is not an unopposed candidate as defined in s. 106.011(15). However, for the purpose of contribution limits with respect to candidates for retention as a justice or judge, there is only one election, which is the general election. ~~With respect to candidates in a circuit holding an election for circuit judge or in a county holding an election for county court judge, there are only two elections, which are the first primary election and general election.~~

Section 28. Subsection (1) of section 106.29, Florida Statutes, is amended to read:

106.29 Reports by political parties; restrictions on contributions and expenditures; penalties.—

(1) The state executive committee and each county executive committee of each political party regulated by chapter 103 shall file regular reports of all contributions received and all expenditures made by such committee. Such reports shall contain the same information as do reports required of candidates by s. 106.07 and shall be filed on the 10th day following the end of each calendar quarter, except that, during the period from the last day for candidate qualifying until the general election, such reports shall be filed on the Friday immediately preceding *both* the ~~first~~ primary election~~, the second primary election,~~ and the general election. Each state executive committee shall file the original and one copy of its reports with the Division of Elections. Each county executive committee shall file its reports with the supervisor of elections in the county in which such committee exists. Any state or county executive committee failing to file a report on the designated due date shall be subject to a fine as provided in subsection (3). No separate fine shall be assessed for failure to file a copy of any report required by this section.

Section 29. Section 98.0977, Florida Statutes, is created to read:

98.0977 Statewide voter registration database.—

(1) The department shall develop a statewide voter registration database, which shall contain voter registration information from every supervisor of elections in this state and shall be accessible through an Internet web site. Accordingly, the department may contract for the analysis, design, development, operation, and maintenance of a statewide, on-line voter registration database and associated Internet web site. The database system adopted must provide functionality for ensuring that the database is updated on a daily basis to determine if a registered voter is ineligible to vote for any of the following reasons, including, but not limited to:

(a) The voter is deceased;

(b) The voter has been convicted of a felony and has not had his or her civil rights restored; or

(c) The voter has been adjudicated mentally incompetent and his or her mental capacity with respect to voting has not been restored.

The database shall also allow for duplicate voter registrations to be identified.

(2) In administering the database, each supervisor of elections shall compare registration information provided by a voter with information held by the Department of Law Enforcement, the Board of Executive Clemency, and the Office of Vital Statistics. If the supervisor of elections finds information that suggests that a voter is ineligible to register to vote, the supervisor of elections shall notify the voter by certified United States mail. The notification shall contain a statement as to the reason for the voter's potential ineligibility to register to vote and shall request information from the voter on forms provided by the supervisor of elections in order to make a final determination on the voter's eligibility. After reviewing the information requested by the supervisor of elections and provided by the voter, if the supervisor of elections determines that the voter is not eligible to vote under the laws of this state, the supervisor of elections shall notify the voter by certified United States mail that he or she has been found ineligible to register to vote in this state, shall state the reason for the ineligibility, and shall inform the voter that he or she will be removed from the voter registration rolls.

(3) To the maximum extent feasible, state and local governmental agencies shall facilitate provision of information and access to data to the department and the supervisors of elections in order to compare information in the statewide voter registration database with available information in other computer databases, including, but not limited to, databases that contain reliable criminal records and records of deceased persons. State and local governmental agencies that provide such data shall do so without charge if the direct cost incurred by those agencies is not significant.

(4) The Division of Elections shall provide written quarterly progress reports on each phase of development of the voter registration database to the President of the Senate and the Speaker of the House of Representatives beginning July 1, 2001, and continuing until the database is fully implemented.

(5) The duties of the supervisors of elections under this section shall be considered part of their regular registration list maintenance duties under this chapter, and any supervisor of elections who willfully refuses or willfully neglects to perform his or her duties under this section shall be in violation of s. 104.051(2).

Section 30. *(1) The statewide voter registration database, created pursuant to s. 98.0977, Florida Statutes, by this act, shall be operational by June 1, 2002.*

(2) Funding for the analysis, design, development, operation, and maintenance of the statewide voter registration database pursuant to s. 98.0977(1), Florida Statutes, shall be as provided for in the 2001-2002 General Appropriations Act.

Section 31. Section 98.0979, Florida Statutes, is created to read:

98.0979 Statewide voter registration database open to inspection; copies.—

(1)(a) The voter registration information of the state constitutes public records. Any citizen shall be allowed to examine the voter

registration records, but may not make any copies or extract therefrom except as provided by this section.

(b) Within 15 days after a request for voter registration information, the division or supervisor of elections shall furnish any requested information, excluding only a voter's signature, social security number, and such other information that is by statute specifically made confidential or is exempt from public records requirements.

(c) Actual costs of duplication of information authorized by this section for release to the public shall be charged in accordance with the provisions of s. 119.07.

(2) The information provided by the division or supervisor of elections pursuant to this section shall be furnished only to:

(a) Municipalities;

(b) Other governmental agencies;

(c) Political candidates, for the purpose of furthering their candidacies;

(d) Registered political committees, certified committees of continuous existence, and political parties or officials thereof, for political purposes only; and

(e) Incumbent officeholders, for the purpose of reporting to their constituents.

(3) Such information shall not be used for commercial purposes. No person to whom a list of registered voters is made available pursuant to this section, and no person who acquires such a list, shall use any information contained therein for purposes which are not related to elections, political or governmental activities, voter registration, or law enforcement.

(4) Any person who acquires a list of registered voters from the division or supervisor of elections shall take and subscribe to an oath which shall be in substantially the following form:

I hereby swear (or affirm) that I am a person authorized by s. 98.0979, Florida Statutes, to acquire information on the registered voters of Florida; that the information acquired will be used only for the purposes prescribed in that section and for no other purpose; and that I will not permit the use or copying of such information by persons not authorized by the Election Code of the State of Florida.

. . .(Signature of person acquiring list). . .

Sworn and subscribed before me this . . . . day of . . . . . , . . .(year). . . .

. . .(Name of person providing list). . .

Section 32. Section 101.048, Florida Statutes, is created to read:

101.048 Provisional ballots.—

(1) At all elections, a voter claiming to be properly registered in the county and eligible to vote at the precinct in the election, but whose eligibility cannot be determined, shall be entitled to vote a provisional ballot. Once voted, the provisional ballot shall be placed in a secrecy envelope and thereafter sealed in a provisional ballot envelope. The provisional ballot shall be deposited in a ballot box. All provisional ballots shall remain sealed in their envelopes for return to the supervisor of elections.

(2)(a) The county canvassing board shall examine each provisional ballot to determine if the person voting that ballot was entitled to vote in the election and that the person had not already cast a ballot in the election.

(b)1. If it is determined that the person was registered and entitled to vote, the canvassing board shall compare the signature on the provisional ballot envelope with the signature on the voter's registration and, if it matches, shall count the ballot.

2. If it is determined that the person voting the provisional ballot was not registered or entitled to vote, the provisional ballot shall not be counted and the ballot shall remain in the envelope containing the Provisional Ballot Voter's Certificate and the envelope marked "Rejected as Illegal."

(3) The Provisional Ballot Voter's Certificate shall be in substantially the following form:

STATE OF FLORIDA
COUNTY OF . . . .

I do solemnly swear (or affirm) that my name is . . . . ; that my date of birth is . . . . ; that I am registered to vote and at the time I registered I resided at . . . . , in the municipality of . . . . , in . . . . County, Florida; that I am a qualified voter of the county and have not voted in this election.

. . .(Signature of Voter). . .
. . .(Current Address). . .

Sworn to and subscribed before me this . . . . day of . . . . . , . . .(year). . . .

. . .(Clerk or Inspector of Election). . .

Additional information may be provided to further assist the supervisor of elections in determining eligibility. If known, please provide the place and date that you registered to vote.

(4) In counties where the voting system does not utilize a paper ballot, the supervisor of elections shall provide the appropriate provisional ballots to each polling place.

Section 33. Subsections (2) and (3) of section 101.045, Florida Statutes, are amended to read:

101.045 Electors must be registered in precinct; provisions for residence or name change.—

(2)(a) An elector who moves from the precinct within the county in which the elector is registered may be permitted to vote in the precinct to which he or she has moved his or her legal residence, provided such elector completes an affirmation in substantially the following form:

Change of Legal Residence of Registered Voter

Under penalties for false swearing, I, . . .(Name of voter). . . , swear (or affirm) that the former address of my legal residence was . . .(Address of legal residence). . . in the municipality of . . . . , in . . . . County, Florida, and I was registered to vote in the . . . . precinct of . . . . County, Florida; that I have not voted in the precinct of my former registration in this election; that I now reside at . . .(Address of legal residence). . . in the Municipality of . . . . , in . . . . County, Florida, and am therefore eligible to vote in the . . . . precinct of . . . . County, Florida; and I further swear (or affirm) that I am otherwise legally registered and entitled to vote.

. . .(Signature of voter whose address of legal residence has changed). . .

(b) An elector whose name changes because of marriage or other legal process may be permitted to vote, provided such elector completes an affirmation in substantially the following form:

Change of Name of Registered Voter

Under penalties for false swearing, I, . . .(New name of voter). . ., swear (or affirm) that my name has been changed because of marriage or other legal process. My former name and address of legal residence appear on the registration books of precinct . . . . as follows:
Name . . . . . .
Address . . . . . .
Municipality . . . . . .
County . . . . . .
Florida, Zip . . . . . .
My present name and address of legal residence are as follows:

Name . . . . . .
Address . . . . . .
Municipality . . . . . .
County . . . . . .
Florida, Zip . . . . . .
and I further swear (or affirm) that I am otherwise legally registered and entitled to vote.

. . .(Signature of voter whose name has changed). . .

(c) Such affirmation, when completed and presented at the precinct in which such elector is entitled to vote, *and upon verification of the elector's registration,* shall entitle such elector to vote as provided in this subsection. *If the elector's eligibility to vote cannot be determined, he or she shall be entitled to vote a provisional ballot subject to the requirements and procedures in s. 101.048.* Upon receipt of an affirmation certifying a change in address of legal residence or name, the supervisor shall as soon as practicable make the necessary changes in the registration records of the county to indicate the change in address of legal residence or name of such elector.

(d) Instead of the affirmation contained in paragraph (a) or paragraph (b), an elector may complete a voter registration application that indicates the change of name or change of address of legal residence.

(e) A request for an absentee ballot pursuant to s. 101.62 which indicates that the elector has had a change of address of legal residence from that in the supervisor's records shall be sufficient as the notice to the supervisor of change of address of legal residence required by this section. Upon receipt of such request for an absentee ballot from an elector who has changed his or her address of legal residence, the supervisor shall provide the elector with the proper ballot for the precinct in which the elector then has his or her legal residence.

(3) When an elector's name does not appear on the registration books of the election precinct in which the elector is registered ~~and when the elector cannot present a valid registration identification card~~, the elector may have his or her name restored if the supervisor is otherwise satisfied that the elector is validly registered, that the elector's name has been erroneously omitted from the books, and that the elector is entitled to have his or her name restored. The supervisor, if he or she is satisfied as to the elector's previous registration, shall allow such person to vote and shall thereafter issue a duplicate registration identification card.

Section 34. Subsections (1), (2), and (8) of section 101.5614, Florida Statutes, are amended, and subsection (9) is added to said section, to read:

101.5614 Canvass of returns.—

(1)(a) In precincts in which an electronic or electromechanical voting system is used, as soon as the polls are closed, the election board shall secure the voting devices against further voting. The election board shall thereafter open the ballot box in the presence of members of the public desiring to witness the proceedings and count the number of voted ballots, unused ballots, *provisional ballots,* and spoiled ballots to ascertain whether such number corresponds with the number of ballots issued by the supervisor. If there is a difference, this fact shall be reported in writing to the county canvassing board with the reasons therefor if known. The total number of voted ballots shall be entered on the forms provided. The proceedings of the election board at the precinct after the polls have closed shall be open to the public; however, no person except a member of the election board shall touch any ballot or ballot container or interfere with or obstruct the orderly count of the ballots.

(b) In lieu of opening the ballot box at the precinct, the supervisor may direct the election board to keep the ballot box sealed and deliver it to a central or regional counting location. In this case, the election board shall count the stubs removed from the ballots to determine the number of voted ballots.

(2)(a) If the ballots are to be tallied at a central location or at no more than three regional locations, the election board shall place all ballots that have been cast and the unused, void, *provisional,* and defective ballots in the container or containers provided for this purpose, which shall be sealed and delivered forthwith to the central or regional counting location or other designated location by two inspectors who shall not, whenever possible, be of the same political party. The election board shall certify that the ballots were placed in such container or containers and each container was sealed in its presence and under its supervision, and it shall further certify to the number of ballots of each type placed in the container or containers.

(b) If ballots are to be counted at the precincts, such ballots shall be counted pursuant to rules adopted by the Department of State, which rules shall provide safeguards which conform as nearly as practicable to the safeguards provided in the procedures for the counting of votes at a central location.

(8) The return printed by the automatic tabulating equipment, to which has been added the return of write-in, absentee, and manually counted votes *and votes from provisional ballots*, shall constitute the official return of the election. Upon completion of the count, the returns shall be open to the public. A copy of the returns may be posted at the central counting place or at the office of the supervisor of elections in lieu of the posting of returns at individual precincts.

(9) Any supervisor of elections, deputy supervisor of elections, canvassing board member, election board member, or election employee who releases the results of any election prior to the closing of the polls on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 35. Paragraph (a) of subsection (2) of section 101.68, Florida Statutes, is amended to read:

101.68 Canvassing of absentee ballot.—

(2)(a) The county canvassing board may begin the canvassing of absentee ballots at 7 a.m. on the fourth day before the election, but not later than noon on the day following the election. In addition, for any county using electronic tabulating equipment, the processing of absentee ballots through such tabulating equipment may begin *at 7 a.m. on the fourth day before the election* ~~upon the opening of the polls on election day~~. However, notwithstanding any such authorization to begin canvassing or otherwise processing absentee ballots early, no result ~~or tabulation of absentee ballots~~ shall be *released* ~~made~~ until after the *closing* ~~close~~ of the polls on election day. *Any supervisor of elections, deputy supervisor of elections, canvassing board member, election board member, or election employee who releases the results of a canvassing or processing of absentee ballots prior to the closing of the polls on election day commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 36. Section 101.69, Florida Statutes, is amended to read:

101.69 Voting in person; return of absentee ballot.—The provisions of this code shall not be construed to prohibit any elector from voting in person at the elector's precinct on the day of an election notwithstanding that the elector has requested an absentee ballot for that election. An elector who has received an absentee ballot, but desires to vote in person, shall return the ballot, whether voted or not, to the election board in the elector's precinct. The returned ballot shall be marked "canceled" by the board and placed with other canceled ballots. However, if the elector is unable to return the ballot, the elector may *vote a provisional ballot as provided in s. 101.048* ~~execute an affidavit stating that the absentee ballot has not been voted and the elector may then vote at the precinct~~.

Section 37. Subsection (1) of section 102.111, Florida Statutes, is amended to read:

102.111 Elections Canvassing Commission.—

(1) Immediately after certification of any election by the county canvassing board, the results shall be forwarded to the Department of

State concerning the election of any federal or state officer. The *Elections Canvassing Commission shall consist of the* Governor *and two members of the Cabinet as determined by the Governor*~~, the Secretary of State, and the Director of the Division of Elections shall be the Elections Canvassing Commission~~. The Elections Canvassing Commission shall, as soon as the official results are compiled from all counties, certify the returns of the election and determine and declare who has been elected for each office. In the event that *the Governor is recused, or any other member of the commission cannot serve, the Governor shall fill the vacancy following the same procedure for appointment to the commission. If no other Cabinet members are available to serve, the Governor shall choose a registered voter to replace the member* ~~any member of the Elections Canvassing Commission is unavailable to certify the returns of any election, such member shall be replaced by a substitute member of the Cabinet as determined by the Director of the Division of Elections. If the county returns are not received by the Department of State by 5 p.m. of the seventh day following an election, all missing counties shall be ignored, and the results shown by the returns on file shall be certified~~.

Section 38. Section 102.112, Florida Statutes, is amended to read:

102.112 Deadline for submission of county returns to the Department of State~~; penalties~~.—

(1) The county canvassing board or a majority thereof shall file the county returns for the election of a federal or state officer with the Department of State immediately after certification of the election results.

(2) Returns must be filed by 5 p.m. on the 7th day following the ~~first~~ primary *election and by 5 p.m. on the 11th day following the* ~~and~~ general election ~~and by 3 p.m. on the 3rd day following the second primary~~.

(3) If the returns are not received by the department by the time specified, such returns *shall* ~~may~~ be ignored and the results on file at that time *shall* ~~may~~ be certified by the department.

(4) If the returns are not received by the department due to an emergency, as defined in s. 101.732, the Elections Canvassing Commission shall determine the deadline by which the returns must be received.

~~(2) The department shall fine each board member $200 for each day such returns are late, the fine to be paid only from the board member's personal funds. Such fines shall be deposited into the Election Campaign Financing Trust Fund, created by s. 106.32.~~

~~(3) Members of the county canvassing board may appeal such fines to the Florida Elections Commission, which shall adopt rules for such appeals.~~

Section 39. Subsection (4) of section 102.141, Florida Statutes, is amended to read:

102.141 County canvassing board; duties.—

(4)*(a)* If the returns for any office reflect that a candidate was defeated or eliminated by one-half of a percent or less of the votes cast for such office, that a candidate for retention to a judicial office was retained or not retained by one-half of a percent or less of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by one-half of a percent or less of the votes cast on such measure, *each county canvassing* ~~the~~ board responsible for certifying the results of the vote on such race or measure shall order a *machine* recount of the votes cast with respect to such office or measure. A recount need not be ordered with respect to the returns for any office, however, if the candidate or candidates defeated or eliminated from contention for such office by one-half of a percent or less of the votes cast for such office request in writing that a recount not be made. Each canvassing board responsible for conducting a *machine* recount shall *recount the ballots with the vote tabulation system. On optical scan machines, a machine recount shall mean actually processing each ballot through the vote tabulation system* ~~examine the counters on the machines or the tabulation of the ballots cast in each precinct in which the office or issue appeared on the ballot and determine whether the returns correctly reflect the votes cast. If there is a discrepancy between the returns and the counters of the machines or the tabulation of the ballots cast, the counters of such machines or the tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly~~.

(b) If, after conducting a machine recount under paragraph (a), the returns for any office reflect that a candidate was defeated or eliminated by one-quarter of a percent or less of the votes cast for such office, that a candidate for retention to a judicial office was retained or not retained by one-quarter of a percent or less of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by one-quarter of a percent or less of the votes cast on such measure, each county canvassing board responsible for certifying the results of the vote on such race or measure shall order a manual recount of the votes cast with respect to such office or measure that were not counted by an otherwise properly functioning vote tabulation system. Manual recounts shall be conducted by the county canvassing boards using the procedures described in s. 102.166. Upon completion of its manual recount, each county canvassing board shall certify the returns for the applicable office or measure.

Section 40. Section 102.166, Florida Statutes, is amended to read:

102.166 Protest of election returns; procedure.—

(1)*(a)* Any candidate for nomination or election *to a federal, state, or multicounty district office*, or any elector qualified to vote in the election related to such candidacy, shall have the right to protest the returns of the election as being erroneous by filing with the *Elections Canvassing Commission* ~~appropriate canvassing board~~ a sworn, written protest.

(b)~~(2)~~ Such protest shall be filed with the *Elections Canvassing Commission* ~~canvassing board~~ prior to the time the *Elections Canvassing Commission* ~~canvassing board~~ certifies the results for the office being protested or within *72 hours* ~~5 days~~ after *the closing of the polls in that election* ~~midnight of the date the election is held~~, whichever occurs later.

~~(3) Before canvassing the returns of the election, the canvassing board shall:~~

~~(a) When paper ballots are used, examine the tabulation of the paper ballots cast.~~

~~(b) When voting machines are used, examine the counters on the machines of nonprinter machines or the printer pac on printer machines. If there is a discrepancy between the returns and the counters of the machines or the printer pac, the counters of such machines or the printer pac shall be presumed correct.~~

(c) *Upon receipt of a sworn, written protest, the Elections Canvassing Commission shall direct each county canvassing board within the geographic jurisdiction of the office or ballot measure to* ~~When electronic or electromechanical equipment is used, the canvassing board shall~~ examine precinct records and election returns. If there is a clerical error, such error shall be corrected by the county canvassing board. If there is a discrepancy *that* ~~which~~ could affect the outcome of an election, the *Elections Canvassing Commission may direct each county* canvassing board *to* ~~may~~ recount the ballots on the automatic tabulating equipment.

(d)1.~~(4)(a)~~ *Upon completion of a machine recount ordered by the Elections Canvassing Commission pursuant to paragraph (c),* any candidate *for federal, state, or multicounty district office* whose name appeared on the ballot *or*~~,~~ any political committee that supports or opposes *a statewide or multicounty* ~~an~~ issue *that* ~~which~~ appeared on the ballot~~, or any political party whose candidates' names appeared on the ballot~~ may file a written request with the *Elections Canvassing Commission* ~~county canvassing board~~ for a manual recount *of the votes cast with respect to such office or measure that were not counted by an otherwise properly functioning vote tabulation system*. The written

request shall contain a statement of the reason the manual recount is being requested.

2.~~(b)~~ Such request must be filed with the *Elections Canvassing Commission* ~~canvassing board prior to the time the canvassing board certifies the results for the office being protested or~~ within 72 hours after *completion of the machine recount ordered by the Elections Canvassing Commission pursuant to paragraph (c)* ~~midnight of the date the election was held, whichever occurs later~~.

3.~~(c)~~ *Based on its evaluation of the validity of the reasons stated in the written request,* the *Elections Canvassing Commission* ~~county canvassing board~~ may authorize a manual recount *of those ballots not counted by the voting equipment during the machine recount. If a manual recount is authorized, the Elections Canvassing Commission shall direct each county canvassing board within the geographic jurisdiction of the office or ballot measure to manually recount all ballots not previously counted by an otherwise properly functioning vote tabulation system, using standards for determining voter intent developed and published by the Division of Elections*. If a manual recount is authorized, the *Elections Canvassing Commission* ~~county canvassing board~~ shall make a reasonable effort to notify each candidate whose race is being recounted of the time and place of such recount.

~~(d) The manual recount must include at least three precincts and at least 1 percent of the total votes cast for such candidate or issue. In the event there are less than three precincts involved in the election, all precincts shall be counted. The person who requested the recount shall choose three precincts to be recounted, and, if other precincts are recounted, the county canvassing board shall select the additional precincts.~~

~~(5) If the manual recount indicates an error in the vote tabulation which could affect the outcome of the election, the county canvassing board shall:~~

~~(a) Correct the error and recount the remaining precincts with the vote tabulation system;~~

~~(b) Request the Department of State to verify the tabulation software; or~~

~~(c) Manually recount all ballots.~~

(2)(a) Any candidate for nomination or election to a county office, municipal office, or district office not covered by paragraph (1)(a), or any elector qualified to vote in the election related to such candidacy, shall have the right to protest the returns of the election as being erroneous by filing with the appropriate county canvassing board a sworn, written protest.

(b) Such protest shall be filed with the county canvassing board prior to the time the canvassing board certifies the results for the office being protested or within 72 hours after the closing of the polls in that election, whichever occurs later.

(c) Upon receipt of a sworn, written protest, the county canvassing board shall:

1. When paper ballots are used, examine the tabulation of the paper ballots cast.

2. When voting machines are used, examine the counters on the machines of nonprinter machines or the printer-pac on printer machines. If there is a discrepancy between the returns and the counters of the machines or the printer-pac, the counters of such machines or the printer-pac shall be presumed correct.

3. When electronic or electromechanical equipment is used, examine precinct records and election returns. If there is a clerical error, such error shall be corrected by the county canvassing board. If there is a discrepancy that could affect the outcome of an election, the canvassing board may recount the ballots on the automatic tabulating equipment.

(d)1. Upon completion of a machine recount ordered by a county canvassing board pursuant to subparagraph (c)3., any candidate not covered by paragraph (1)(d) whose name appeared on the ballot or any political committee that supports or opposes an issue not covered by paragraph (1)(d) which appeared on the ballot may file a written request with the county canvassing board for a manual recount of the votes cast with respect to such office or measure that were not counted by an otherwise properly functioning vote tabulation system. The written request shall contain a statement of the reason the manual recount is being requested.

2. Such request must be filed with the canvassing board within 72 hours after the completion of the machine recount ordered pursuant to subparagraph (c)3.

3. Based on its evaluation of the validity of the reasons stated in the written request, the county canvassing board may authorize a manual recount of those ballots not counted by the voting equipment during the machine recount. If a manual recount is authorized, the county canvassing board shall manually recount all ballots not previously counted by an otherwise properly functioning vote tabulation system, using standards for determining voter intent developed and published by the Division of Elections. If a manual recount is authorized, the county canvassing board shall make a reasonable effort to notify each candidate whose race is being recounted of the time and place of such recount.

(3)~~(6)~~ Any manual recount shall be open to the public.

(4)~~(7)~~ Procedures for a manual recount are as follows:

(a) The county canvassing board shall appoint as many counting teams of at least two electors as is necessary to manually recount the ballots. A counting team must have, when possible, members of at least two political parties. A candidate involved in the race shall not be a member of the counting team.

(b) If a counting team is unable to determine a voter's intent in casting a ballot, *using the standards for determining voter intent developed and published by the Division of Elections,* the ballot shall be presented to the county canvassing board for it to determine the voter's intent. *If the county canvassing board is unable to determine a voter's intent in casting a ballot using the standards for determining voter intent developed and published by the Division of Elections, the ballot shall not be counted in the official canvass.*

(5)~~(8)~~ If the county canvassing board determines the need to verify the tabulation software, the county canvassing board shall request in writing that the Department of State verify the software.

(6)~~(9)~~ When the Department of State verifies such software, the department shall:

(a) Compare the software used to tabulate the votes with the software filed with the Department of State pursuant to s. 101.5607; and

(b) Check the election parameters.

(7)~~(10)~~ The Department of State shall respond to the county canvassing board within 3 working days.

Section 41. Section 102.167, Florida Statutes, is amended to read:

102.167 Form of protest of election returns.—

(1) The form of the "Protest of Election Returns to the Elections Canvassing Commission" shall be as follows:

PROTEST OF ELECTION RETURNS TO THE ELECTIONS CANVASSING COMMISSION

. . . . , Florida

. . . . , . . .(year). . .

As provided in Section 102.166(1), Florida Statutes, I, ... of . . . . County, Florida, believe the election returns from . . . . in the . . . . election . . .(year). . . are erroneous.

I hereby protest the canvass of such returns by the Elections Canvassing Commission, and request that said returns be investigated,

examined, checked, and corrected by the Elections Canvassing Commission. The basis for this protest is . . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
Under penalties of perjury, I swear (or affirm) that I have read the foregoing and that the facts alleged are true, to the best of my knowledge and belief.

. . .(Signature of person protesting election returns). . .

(2) The form of the "Protest of Election Returns to Canvassing Board" shall be as follows:

PROTEST OF ELECTION RETURNS TO CANVASSING BOARD

. . . . , Florida

. . . . , . . .(year). . .

As provided in Section 102.166*(2)*~~(1)~~, Florida Statutes, I, ... of . . . . County, Florida, believe the election returns from Precinct No. . . . . in the . . . . election . . .(year). . . are erroneous.

I hereby protest the canvass of such returns by the . . . . Canvassing Board, and request that said returns be investigated, examined, checked, and corrected by said Canvassing Board. The basis for this protest is . . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
Under penalties of perjury, I swear (or affirm) that I have read the foregoing and that the facts alleged are true, to the best of my knowledge and belief.

. . .(Signature of person protesting election returns). . .

Section 42. Section 102.168, Florida Statutes, is amended to read:

102.168 Contest of election.—

(1) Except as provided in s. 102.171, the certification of election or nomination of any person to office~~, or of the result on any question submitted by referendum,~~ may be contested in the circuit court by any unsuccessful candidate for such office or nomination thereto *and the result on any question submitted by referendum may be contested in the circuit court* ~~or~~ by any elector ~~qualified to vote in the election related to such candidacy, or by any taxpayer, respectively~~.

(2) Such contestant shall file a complaint, together with the fees prescribed in chapter 28, with the clerk of the circuit court within 10 days after midnight of the date the last county canvassing board empowered to canvass the returns certifies the results of the election being contested or within 5 days after midnight of the date the last county canvassing board empowered to canvass the returns certifies the results of that particular election following a protest pursuant to s. 102.166~~(1)~~, whichever occurs later.

(3) The complaint shall set forth the grounds on which the contestant intends to establish his or her right to such office or set aside the result of the election on a submitted referendum. The grounds for contesting an election under this section are:

(a) Misconduct, fraud, or corruption on the part of any election official or any member of the canvassing board sufficient to change or place in doubt the result of the election.

(b) Ineligibility of the successful candidate for the nomination or office in dispute.

(c) Receipt of a number of illegal votes or rejection of a number of legal votes sufficient to change or place in doubt the result of the election.

(d) Proof that any elector, election official, or canvassing board member was given or offered a bribe or reward in money, property, or any other thing of value for the purpose of procuring the successful candidate's nomination or election or determining the result on any question submitted by referendum.

~~(e) Any other cause or allegation which, if sustained, would show that a person other than the successful candidate was the person duly nominated or elected to the office in question or that the outcome of the election on a question submitted by referendum was contrary to the result declared by the canvassing board or election board.~~

(4) The canvassing board or *the Elections Canvassing Commission* ~~election board~~ shall be the proper party defendant, and the successful candidate shall be an indispensable party to any action brought to contest the election or nomination of a candidate.

(5) A statement of the grounds of contest may not be rejected, nor the proceedings dismissed, by the court for any want of form if the grounds of contest provided in the statement are sufficient to clearly inform the defendant of the particular proceeding or cause for which the nomination or election is contested.

(6) A copy of the complaint shall be served upon the defendant and any other person named therein in the same manner as in other civil cases under the laws of this state. Within 10 days after the complaint has been served, the defendant must file an answer admitting or denying the allegations on which the contestant relies or stating that the defendant has no knowledge or information concerning the allegations, which shall be deemed a denial of the allegations, and must state any other defenses, in law or fact, on which the defendant relies. If an answer is not filed within the time prescribed, the defendant may not be granted a hearing in court to assert any claim or objection that is required by this subsection to be stated in an answer.

(7) Any candidate *or*~~, qualified~~ elector~~, or taxpayer~~ presenting such a contest to a circuit judge is entitled to an immediate hearing. However, the court in its discretion may limit the time to be consumed in taking testimony, with a view therein to the circumstances of the matter and to the proximity of any succeeding ~~primary or other~~ election.

~~(8) The circuit judge to whom the contest is presented may fashion such orders as he or she deems necessary to ensure that each allegation in the complaint is investigated, examined, or checked, to prevent or correct any alleged wrong, and to provide any relief appropriate under such circumstances.~~

Section 43. Subsection (5) is added to section 99.096, Florida Statutes, to read:

99.096 Minor party candidates; names on ballot.—

(5) Notwithstanding any other provision of this section, a minor political party's entire slate of candidates shall be automatically granted ballot access at the general election that immediately follows a statewide or federal election at which any candidate of the minor political party received at least 1 percent of the votes cast statewide, and shall be exempt from the qualifying fee provisions under subsection (2) and the provisions for qualifying by the alternative method under subsection (3), if otherwise qualified for the office sought.

Section 44. Section 106.31, Florida Statutes, is amended to read:

106.31 Legislative intent.—The Legislature finds that the costs of running an effective campaign for statewide office have reached a level which tends to discourage persons from becoming candidates and to limit the persons who run for such office to those who are independently wealthy, who are supported by political committees representing special interests which are able to generate substantial campaign contributions, or who must appeal to special interest groups for campaign contributions. The Legislature further finds that campaign contributions generated by such political committees are having a disproportionate impact vis-a-vis contributions from unaffiliated individuals, which leads to the misperception of government officials

unduly influenced by those special interests to the detriment of the public interest. *Furthermore, it is the intent of the Legislature that the purpose of public campaign financing is to make candidates more responsive to the voters of the State of Florida and as insulated as possible from special interest groups.* The Legislature intends ss. 106.30-106.36 to alleviate these factors, dispel the misperception, and encourage qualified persons to seek statewide elective office who would not, or could not otherwise do so *and to protect the effective competition by a candidate who uses public funding*.

Section 45. Section 106.33, Florida Statutes, is amended to read:

106.33 Election campaign financing; eligibility.—Each candidate for the office of Governor or member of the Cabinet who desires to receive contributions from the Election Campaign Financing Trust Fund shall, upon qualifying for office, file a request for such contributions with the filing officer on forms provided by the Division of Elections. If a candidate requesting contributions from the fund desires to have such funds distributed by electronic fund transfers, the request shall include information necessary to implement that procedure. For the purposes of ss. 106.30-106.36, candidates for Governor and Lieutenant Governor on the same ticket shall be considered as a single candidate. To be eligible to receive contributions from the fund, a candidate *may* ~~shall~~ not be an unopposed candidate as defined in s. 106.011(15) and *must* ~~shall~~:

(1) Agree to abide by the expenditure limits provided in s. 106.34.

(2)*(a)* Raise contributions as follows:

1.~~(a)~~ One hundred fifty thousand dollars for a candidate for Governor.

2.~~(b)~~ One hundred thousand dollars for a candidate for Cabinet office.

(b) The following may not be used to meet the threshold amounts in paragraph (a):

1. Loans or contributions from the candidate's personal funds;

2. Contributions from national, state, and county executive committees of a political party; or

3. Contributions from individuals who at the time of contributing are not state residents. For purposes of this subparagraph, any person validly registered to vote in this state shall be considered a state resident.

(3) Limit loans or contributions from the candidate's personal funds to $25,000 and contributions from national, state, and county executive committees of a political party to $25,000 in the aggregate~~, which loans or contributions shall not qualify for meeting the threshold amounts in subsection (2)~~.

(4) Submit to a postelection audit of the campaign account by the division.

Section 46. Subsection (2) of section 106.35, Florida Statutes, is amended to read:

106.35 Distribution of funds.—

(2)(a) Each candidate who has been certified to receive contributions from the Election Campaign Financing Trust Fund shall be entitled to distribution of funds as follows:

1. For qualifying matching contributions making up all or any portion of the threshold amounts specified in s. 106.33(2), distribution shall be on a two-to-one basis.

2. For all other qualifying matching contributions, distribution shall be on a one-to-one basis.

(b) Qualifying matching contributions are those of $250 or less from an individual, made after September 1 of the calendar year prior to the election. *Any contribution that is a loan, is an in-kind contribution, is received from a political committee or committee of continuous existence, or is received from an individual who is not a state resident at the time the contribution is made shall not be considered a qualifying matching contribution. For purposes of this paragraph, any person validly registered to vote in this state shall be considered a state resident.* Aggregate contributions from an individual in excess of $250 will be matched only up to $250. A contribution from an individual, if made by check, must be drawn on the personal bank account of the individual making the contribution, as opposed to any form of business account, regardless of whether the business account is for a corporation, partnership, sole proprietorship, trust, or other form of business arrangement. For contributions made by check from a personal joint account, the match shall only be for the individual who actually signs the check.

Section 47. *Effective June 1, 2002, section 98.0975, Florida Statutes, is repealed.*

Section 48. Section 98.255, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 98.255, F.S., for present text.)

98.255 Voter-education programs.—

(1) By March 1, 2002, the Department of State shall adopt rules prescribing minimum standards for nonpartisan voter education. In developing the rules, the department shall review current voter-education programs within each county of the state. The standards shall address, but are not limited to, the following subjects:

(a) Voter registration;

(b) Balloting procedures, absentee and polling place;

(c) Voter rights and responsibilities;

(d) Distribution of sample ballots; and

(e) Public service announcements.

(2) Each supervisor of elections shall implement the minimum voter-education standards and shall conduct additional nonpartisan education efforts as necessary to ensure that voters have a working knowledge of the voting process.

(3)(a) By December 15 of each general election year, each supervisor of elections shall report to the Department of State a detailed description of the voter-education programs implemented and any other information that may be useful in evaluating the effectiveness of voter-education efforts.

(b) The Department of State, upon receipt of such information, shall prepare a public report on the effectiveness of voter-education programs and shall submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31 of each year following a general election.

(c) The Department of State shall reexamine the rules adopted pursuant to subsection (1) and consider the findings in the report as a basis for adopting modified rules that incorporate successful voter-education programs and techniques, as necessary.

Section 49. Section 102.014, Florida Statutes, is created to read:

102.014 Pollworker recruitment and training.—

(1) The supervisor of elections shall conduct training for inspectors, clerks, and deputy sheriffs prior to each primary, general, and special election for the purpose of instructing such persons in their duties and responsibilities as election officials. A certificate may be issued by the supervisor of elections to each person completing such training. No person shall serve as an inspector, clerk, or deputy sheriff for an election unless such person has completed the training as required. A clerk may not work at the polls unless he or she demonstrates a working knowledge of the laws and procedures relating to voter registration, voting system operation, balloting and polling place procedures, and problem-solving and conflict-resolution skills.

(2) A person who has attended previous training conducted within 2 years before the election may be appointed by the supervisor to fill a vacancy on election day. If no person with prior training is available to fill such vacancy, the supervisor of elections may fill such vacancy in accordance with the provisions of subsection (3) from among persons who have not received the training required by this section.

(3) In the case of absence or refusal to act on the part of any inspector or clerk at any precinct on the day of an election, the supervisor shall appoint a replacement who meets the qualifications prescribed in section 102.012(2). The inspector or clerk so appointed shall be a member of the same political party as the clerk or inspector whom he or she replaces.

(4) Each supervisor of elections shall be responsible for training inspectors and clerks, subject to the following minimum requirements:

(a) Each clerk shall receive four hours of training biannually when not in a general election year, and two hours of training quarterly in each general election year;

(b) Each inspector shall receive at least two hours of training biannually when not in a general election year, and one hour of training quarterly in each general election year.

(c) No clerk shall be entitled to work at the polls unless he or she has had a minimum of six hours of training.

(d) No inspector shall work at the polls unless he or she has had a minimum of three hours of training.

(5) The Department of State shall create a uniform polling place procedures manual and adopt the manual by rule. Each supervisor of elections shall insure that the manual is available in hard copy or electronic form in every precinct in the supervisor's jurisdiction on election day. The manual shall guide inspectors, clerks, and deputy sheriffs in the proper implementation of election procedures and laws. The manual shall be indexed by subject, and written in plain, clear, unambiguous language. The manual shall provide specific examples of common problems encountered at the polls on election day, and detail specific procedures for resolving those problems. The manual shall include, without limitation:

(a) Regulations governing solicitation by individuals and groups at the polling place;

(b) Procedures to be followed with respect to voters whose names are not on the precinct register;

(c) Proper operation of the voting system;

(d) Ballot handling procedures;

(e) Procedures governing spoiled ballots;

(f) Procedures to be followed after the polls close;

(g) Rights of voters at the polls;

(h) Procedures for handling emergency situations;

(i) Procedures for dealing with irate voters;

(j) The handling and processing of provisional ballots; and

(k) Security procedures.

The Department of State shall revise the manual as necessary to address new procedures in law or problems encountered by voters and pollworkers at the precincts.

(6) Supervisors of elections shall work with the business and local community to develop public-private programs to ensure the recruitment of skilled inspectors and clerks.

Section 50. *Subsections (8) and (9) of section 102.012, Florida Statutes, are repealed.*

Section 51. Subsection (2) of section 102.021, Florida Statutes, is amended to read:

102.021 Compensation of inspectors, clerks, and deputy sheriffs.—

(2) Inspectors and clerks of election and deputy sheriffs serving at the precincts may receive compensation and travel expenses, as provided in s. 112.061, for attending the pollworker training required by s. *102.014* ~~102.012(8)~~.

Section 52. Section 101.031, Florida Statutes, is amended to read:

101.031 Instructions for electors.—

(1) The Department of State, or in case of municipal elections the governing body of the municipality, shall print, in large type on cards, instructions for the electors to use in voting. It shall provide not less than two cards for each voting precinct *for each election* and furnish such cards to each supervisor upon requisition. Each supervisor of elections shall send a sufficient number of these cards to the precincts prior to an election. The election inspectors shall display the cards in the polling places as information for electors. The cards shall contain information about how to vote and such other information as the Department of State may deem necessary. *The cards must also include the list of rights and responsibilities afforded to Florida voters, as described in subsection (2).*

(2) The supervisor of elections in each county shall have posted at each polling place in the county the Voter's Bill of Rights and Responsibilities in the following form:

VOTER'S BILL OF RIGHTS

Each registered voter in this state has the right to:

1. Vote and have his or her vote accurately counted.

2. Cast a vote if he or she is in line when the polls are closing.

3. Ask for and receive assistance in voting.

4. Up to two replacement ballots if he or she has voted in error.

5. An explanation if his or her registration is in question.

6. Cast a provisional ballot if his or her registration is in question.

7. Prove his or her identity by signing an affidavit if election officials doubt the voter's identity.

8. Written instructions to use when voting, and, upon request, oral instructions in voting from elections officers.

9. Vote free from coercion or intimidation by elections officers or any other person.

10. Vote on a voting system that is in working condition and that will allow votes to be accurately cast.

VOTER RESPONSIBILITIES

Each registered voter in this state has the responsibility to:

1. Study and know candidates and issues.

2. Keep his or her voter address current.

3. Know his or her precinct and its hours of operation.

4. Bring proper identification to the polling station.

5. Know how to operate voting equipment properly.

6. Treat precinct workers with courtesy.

7. Respect the privacy of other voters.

8. Report problems or violations of election law.

9. Ask questions when confused.

10. Check his or her completed ballot for accuracy.

(3) Nothing in this section shall give rise to a legal cause of action.

(4)~~(2)~~ In case any elector, after entering the voting booth, shall ask for further instructions concerning the manner of voting, two election officers who are not both members of the same political party, if present, or, if not, two election officers who are members of the same political party, shall give such instructions to such elector, but no officer or person assisting an elector shall in any manner request, suggest, or seek to persuade or induce any elector to vote for or against any particular ticket, candidate, amendment, question, or proposition. After giving the elector instructions and before the elector has voted, the officers or persons assisting the elector shall retire, and such elector shall vote in secret.

Section 53. Effective September 2, 2002, paragraph (b) of subsection (1) and subsections (2), (31), and (32) of section 97.021, Florida Statutes, as amended by this act, are amended to read:

97.021 Definitions.—For the purposes of this code, except where the context clearly indicates otherwise, the term:

(1) "Absent elector" means any registered and qualified voter who:

(b) Is an inspector, a poll worker, a deputy voting *system* ~~machine~~ custodian, a deputy sheriff, a supervisor of elections, or a deputy supervisor who is assigned to a different precinct than that in which he or she is registered to vote.

(2) "Ballot" or "official ballot" when used in reference to:

~~(a) "Voting machines," except when reference is made to write-in ballots, means that portion of the printed strips of cardboard, paper, or other material that is within the ballot frames containing the names of candidates, or a statement of a proposed constitutional amendment or other question or proposition submitted to the electorate at any election.~~

(a)~~(b)~~ "Paper ballots" means that printed sheet of paper*, used in conjunction with an electronic or electromechanical vote tabulation voting system,* containing the names of candidates, or a statement of proposed constitutional amendments or other questions or propositions submitted to the electorate at any election, on which sheet of paper an elector casts his or her vote.

(b)~~(c)~~ "Electronic or electromechanical devices" means a ballot which is voted by the process of *electronically designating* ~~punching~~ or marking with a marking device for tabulation by automatic tabulating equipment or data processing equipment.

(31) "Voting booth" or "booth" means that booth or enclosure wherein an elector casts his or her ballot~~, be it a paper ballot, a voting machine ballot, or a ballot cast~~ for tabulation by an electronic or electromechanical device.

(32) "Voting system" means a method of casting and processing votes that functions wholly or partly by use of ~~mechanical,~~ electromechanical~~,~~ or electronic apparatus or by use of paper ballots and includes, but is not limited to, the procedures for casting and processing votes and the programs, operating manuals, ~~tabulating cards,~~ printouts, and other software necessary for the system's operation.

Section 54. Effective September 2, 2002, section 98.471, Florida Statutes, is amended to read:

98.471 Use of precinct register at polls.—The precinct register, as prescribed in s. 98.461, may be used at the polls in lieu of the registration books for the purpose of identifying the elector at the polls prior to allowing him or her to vote. The clerk or inspector shall require each elector, upon entering the polling place, to present a Florida driver's license, a Florida identification card issued under s. 322.051, or another form of picture identification approved by the Department of State. The elector shall sign his or her name in the space provided, and the clerk or inspector shall compare the signature with that on the identification provided by the elector and enter his or her initials in the space provided and allow the elector to vote if the clerk or inspector is satisfied as to the identity of the elector. If the elector fails to furnish the required identification, or if the clerk or inspector is in doubt as to the identity of the elector, such clerk or inspector shall follow the procedure prescribed in s. 101.49. ~~The precinct register may also contain the information set forth in s. 101.47(8) and, if so, the inspector shall follow the procedure required in s. 101.47, except that the identification provided by the elector shall be used for the signature comparison.~~

Section 55. Effective September 2, 2002, paragraph (a) of subsection (1) of section 100.071, Florida Statutes, as amended by this act, is amended to read:

100.071 Grouping of candidates on primary election ballot.—

(1)(a) Where two or more similar offices are to be filled in the same election, the names of candidates shall be placed or printed upon the ballot ~~or voting machine~~ in groups or districts; that is, if two or more members of the Legislature or two or more members of a governing board are to be elected from the same geographical area, then the candidates' names shall be placed or printed on the ballot ~~or voting machines~~ in groups or districts, as the case may be.

Section 56. Effective September 2, 2002, subsection (3) of section 100.361, Florida Statutes, is amended to read:

100.361 Municipal recall.—

(3) BALLOTS.—The ballots at the recall election shall conform to the following: With respect to each person whose removal is sought, the question shall be submitted: "Shall . . . . be removed from the office of . . . . by recall?" Immediately following each question there shall be printed on the ballots the two propositions in the order here set forth:

". . .(name of person). . . should be removed from office."

". . .(name of person). . . should not be removed from office."

~~Immediately to the right of each of the propositions shall be placed a square on which the electors, by making a crossmark (X), may vote either of the propositions. Voting machines or electronic or electromechanical equipment may be used.~~

Section 57. Section 101.151, Florida Statutes, is amended to read:

101.151 Specifications for *ballots* ~~general election ballot.—In counties in which voting machines are not used, and in other counties for use as absentee ballots not designed for tabulation by an electronic or electromechanical voting system, the general election ballot shall conform to the following specifications:~~

(1) *Paper ballots* ~~The ballot~~ shall be printed on paper of such thickness that the printing cannot be distinguished from the back.

~~(2) Across the top of the ballot shall be printed "Official Ballot, General Election," beneath which shall be printed the county, the precinct number, and the date of the election. The precinct number, however, shall not be required for absentee ballots. Above the caption of the ballot shall be two stubs with a perforated line between the stubs and between the lower stub and the top of the ballot. The top stub shall be stub No. 1 and shall have printed thereon, "General Election, Official Ballot," and then shall appear the name of the county, the precinct number, and the date of the election. On the left side shall be a blank line under which shall be printed "Signature of Voter." On the right side shall be "Initials of Issuing Official," above which there shall be a blank line. The second stub shall be the same, except there shall not be a space for signature of the elector. Both stubs No. 1 and No. 2 on ballots for each precinct shall be prenumbered consecutively, beginning with "No. 1." However, a second stub shall not be required for absentee ballots.~~

(2)~~(3)~~(a) ~~Beneath the caption and preceding the names of candidates shall be the following words: "To vote for a candidate whose name is printed on the ballot, place a cross (X) mark in the blank space at the right of the name of the candidate for whom you desire to vote. To vote for a write-in candidate, write the name of the candidate in the blank space provided for that purpose."~~ The ballot shall have headings under which shall appear the names of the offices and names of duly nominated candidates for the respective offices in the following order: the heading "~~Electors for~~ President and Vice President" and thereunder

the names of the candidates for President and Vice President of the United States nominated by the political party which received the highest vote for Governor in the last general election of the Governor in this state~~, above which shall appear the name of said party~~. Then shall appear the names of other candidates for President and Vice President of the United States who have been properly nominated. Votes cast for write-in candidates for President and Vice President shall be counted as votes cast for the presidential electors supporting such candidates. Then shall follow the heading "Congressional" and thereunder the offices of United States Senator and Representative in Congress; then the heading "State" and thereunder the offices of Governor and Lieutenant Governor, Secretary of State, Attorney General, Comptroller, Treasurer, Commissioner of Education, Commissioner of Agriculture, state attorney, and public defender, together with the names of the candidates for each office and the title of the office which they seek; then the heading "Legislative" and thereunder the offices of state senator and state representative; then the heading "County" and thereunder clerk of the circuit court, clerk of the county court (when authorized by law), sheriff, property appraiser, tax collector, district superintendent of schools, and supervisor of elections. Thereafter follows: members of the board of county commissioners~~,~~ and such other county *and district* offices as are involved in the general election, in the order fixed by the Department of State*, followed, in the year of their election, by "Party Offices," and thereunder the offices of state and county party executive committee members*. ~~When a write-in candidate has qualified for any office, a subheading "Write-in Candidate for . . .(name of office). . ." shall be provided followed by a blank space in which to write the name of the candidate.~~ With respect to write-in candidates, if two or more candidates are seeking election to one office, only one blank space shall be provided.

(b) ~~Immediately following the name of each office on the ballot shall be printed, "Vote for One."~~ When more than one candidate is nominated for office, the candidates for such office shall qualify and run in a group or district, and the group or district number shall be printed beneath the name of the office. ~~The name of the office shall be printed over each numbered group or district and each numbered group or district shall be clearly separated from the next numbered group or district, the same as in the case of single offices. Following the group or district number shall be printed the words, "Vote for One," and the names of the candidates in the respective groups or districts shall be arranged thereunder.~~

(c) If in any election all the offices as set forth in paragraph (a) are not involved, those offices to be filled shall be arranged on the ballot in the order named.

(3)(a)~~(4)~~ The names of the candidates of the party which received the highest number of votes for Governor in the last election in which a Governor was elected shall be placed first under the heading for each office *on the general election ballot*, together with an appropriate abbreviation of party name; the names of the candidates of the party which received the second highest vote for Governor shall be second under the heading for each office, together with an appropriate abbreviation of the party name.

(b)~~(5)~~ Minor political party candidates and candidates with no party affiliation shall have their names appear on the general election ballot following the names of recognized political parties, in the same order as they were certified.

(4)(a) The name of candidates for each office shall be arranged alphabetically as to surnames on a primary election ballot.

(b) When two or more candidates running for the same office on a primary election ballot have the same or a similar surname, the word "incumbent" shall appear next to the incumbent's name.

(5) The primary election ballot shall be arranged so that the offices of Governor and Lieutenant Governor are joined in a single voting space to allow each elector to cast a single vote for the joint candidacies for Governor and Lieutenant Governor, if applicable.

(6) The general election ballot shall be arranged so that the offices of President and Vice President are joined in a single voting space to allow each elector to cast a single vote for the joint candidacies for President and Vice President and so that the offices of Governor and Lieutenant Governor are joined in a single voting space to allow each elector to cast a single vote for the joint candidacies for Governor and Lieutenant Governor.

(7)~~(6)~~ Except for justices or judges seeking retention, the names of unopposed candidates shall not appear on the general election ballot. Each unopposed candidate shall be deemed to have voted for himself or herself.

(8)(a) The Department of State shall adopt rules prescribing a uniform primary and general election ballot for each certified voting system. The rules shall incorporate the requirements set forth in this section and shall prescribe additional matters and forms which include, without limitation:

1. Clear and unambiguous ballot instructions and directions;

2. Individual race layout; and

3. Overall ballot layout.

(b) The department rules shall graphically depict a sample uniform primary and general election ballot form for each certified voting system.

~~(7) The same requirement as to the type, size, and kind of printing of official ballots in primary elections as provided in s. 101.141(5) shall govern the printing of official ballots in general elections.~~

~~(8) Should the above directions for complete preparation of the ballot be insufficient, the Department of State shall determine and prescribe any additional matter or form. Not less than 60 days prior to a general election, the Department of State shall mail to each supervisor of elections the format of the ballot to be used for the general election.~~

~~(9) The provisions of s. 101.141(7) shall be applicable in printing of said ballot.~~

Section 58. Effective September 2, 2002, section 101.21, Florida Statutes, is amended to read:

101.21 Official ballots; number; printing; payment.—

~~(1) In any county in which voting machines are not used,~~ The supervisor of elections shall determine the actual number of ballots to be printed *for an election*. The printing and delivery of ballots and cards of instruction shall, in a municipal election, be paid for by the municipality, and in all other elections by the county.

~~(2) In any county in which voting machines are used, one set of official ballots shall be provided for each machine plus a number of sets equal to 5 percent of the total number of machines; one set shall be inserted or placed in or upon each machine, and the remainder of the sets shall be retained in the custody of the supervisor, unless it shall become necessary during the election to make use of same upon or in the machines.~~

Section 59. Effective September 2, 2002, section 101.24, Florida Statutes, is amended to read:

101.24 Ballot boxes and ballots.—The supervisor of elections~~, except where voting machines are used,~~ shall prepare for each polling place one ballot box of sufficient size to contain all the ballots of the particular precinct, and the ballot box shall be plainly marked with the name of the precinct for which it is intended. An additional ballot box, if necessary, may be supplied to any precinct. Before each election, the supervisor shall place in the ballot box or ballot transfer container as many ballots as are required in s. 101.21. After securely sealing the ballot box or ballot transfer container, the supervisor shall send the ballot box or ballot transfer container to the clerk or inspector of election of the precinct in which it is to be used. The clerk or inspector shall be placed under oath or affirmation to perform his or her duties faithfully and without favor or prejudice to any political party.

Section 60. Effective September 2, 2002, subsection (2) of section 101.292, Florida Statutes, is amended to read:

101.292 Definitions; ss. 101.292-101.295.—As used in ss. 101.292-101.295, the following terms shall have the following meanings:

(2) "Voting equipment" means ~~new or used voting machines and materials, parts, or other equipment necessary for the maintenance or improvement of voting machines, the individual or combined retail value of which is in excess of the threshold amount for CATEGORY TWO purchases provided in s. 287.017. The term "voting equipment" also includes~~ electronic or electromechanical voting systems, voting devices, and automatic tabulating equipment as defined in s. 101.5603, as well as materials, parts, or other equipment necessary for the operation and maintenance of such systems and devices*, the individual or combined retail value of which is in excess of the threshold amount for CATEGORY TWO purchases provided in s. 287.017*.

Section 61. Effective September 2, 2002, section 101.34, Florida Statutes, is amended to read:

101.34 Custody of voting *system* ~~machines~~.—The supervisor of elections shall be the custodian of *the* voting *system* ~~machines~~ in the county ~~using them~~, and he or she shall appoint deputies necessary to prepare and supervise the *voting system* ~~machines~~ prior to and during elections. The compensation for such deputies shall be paid by the supervisor of elections.

Section 62. Effective September 2, 2002, section 101.341, Florida Statutes, is amended to read:

101.341 Prohibited activities by voting *system* ~~machine~~ custodians and deputy custodians.—

(1) No voting *system* ~~machine~~ custodian or deputy custodian or other employee of the supervisor of elections, which employee's duties are primarily involved with the preparation, maintenance, or repair of voting equipment, shall accept employment or any form of consideration from any person or business entity involved in the purchase, repair, or sale of voting equipment unless such employment has the prior written approval of the supervisor of elections of the county by which such person is employed.

(2) Any person violating the provisions of this section *commits* ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083. Such person shall also be subject to immediate discharge from his or her position.

Section 63. Effective September 2, 2002, section 101.43, Florida Statutes, is amended to read:

101.43 Substitute ballot.—When ~~voting machines are used and~~ the required official ballots for a precinct are not delivered in time to be used on election day, or after delivery, are lost, destroyed or stolen, the clerk or other officials whose duty it is to provide ballots for use at such election, in lieu of the official ballots, shall have substitute ballots prepared, conforming as nearly as possible to the official ballots, and the board of election shall substitute these ballots to be used in the same manner as the official ballots would have been used at the election.

Section 64. Section 101.49, Florida Statutes, is amended to read:

101.49 Procedure of election officers where signatures differ.—

(1) Whenever any clerk or inspector, upon a just comparison of the *signatures* ~~signature~~, *doubts* ~~shall doubt~~ that the *signature* ~~handwriting affixed to a signature identification slip~~ of any elector who presents himself or herself at the polls to vote is the same as the signature of the elector affixed in the registration book, the clerk or inspector shall deliver to the person an affidavit which shall be in substantially the following form:

STATE OF FLORIDA,
COUNTY OF . . . . .

I do solemnly swear (or affirm) that my name is . . . . ; that I am . . . . years old; that I was born in the State of . . . . ; that I am registered to vote, and at the time I registered I resided on . . . . Street, in the municipality of . . . . , County of . . . . , State of Florida; that I am a qualified voter of the county and state aforesaid and have not voted in this election.

. . .(Signature of voter). . .

Sworn to and subscribed before me this . . . . day of . . . . , A. D. . . .(year). . . .

. . .(Clerk or inspector of election). . .
Precinct No. . . . . .
County of . . . . .

(2) The person shall fill out, in his or her own handwriting or with assistance from a member of the election board, the form and make an affidavit to the facts stated in the filled-in form; such affidavit shall then be sworn to and subscribed before one of the inspectors or clerks of the election who is authorized to administer the oath. Whenever the affidavit is made and filed with the clerk or inspector, the person shall then be *permitted* ~~admitted to the voting machine~~ to cast his or her vote, but if the person fails or refuses to make out or file such affidavit, then he or she shall not be permitted to vote.

Section 65. Effective September 2, 2002, subsections (4), (5), and (8) of section 101.5603, Florida Statutes, are amended to read:

101.5603 Definitions relating to Electronic Voting Systems Act.—As used in this act, the term:

(4) "Electronic or electromechanical voting system" means a system of casting votes by use of voting devices or marking devices and counting ballots by employing automatic tabulating equipment or data processing equipment*, and the term includes touchscreen systems*.

(5) "Marking device" means ~~either an approved apparatus used for the piercing of ballots by the voter or~~ any approved device for marking a ballot with ink or other substance *or by touching a screen* which will enable the ballot to be tabulated by means of automatic tabulating equipment.

(8) "Voting device" means ~~either an apparatus in which ballots are inserted and used in connection with a marking device for the piercing of ballots by the voter or~~ an apparatus by which votes are registered electronically.

Section 66. Effective September 2, 2002, section 101.5604, Florida Statutes, is amended to read:

101.5604 Adoption of system; procurement of equipment; commercial tabulations.—The board of county commissioners of any county, at any regular meeting or a special meeting called for the purpose, may, upon consultation with the supervisor of elections, adopt, purchase or otherwise procure, and provide for the use of any electronic or electromechanical voting system approved by the Department of State in all or a portion of the election precincts of that county. Thereafter the electronic or electromechanical voting system may be used for voting at all elections for public and party offices and on all measures and for receiving, registering, and counting the votes thereof in such election precincts as the governing body directs. *Any electronic or electromechanical voting system used by the county must be a precinct tabulation voting system.* ~~Any such board may contract for the tabulation of votes at a location within the county when there is no suitable tabulating equipment available which is owned by the county.~~

Section 67. Effective September 2, 2002, subsections (3) and (10) of section 101.5606, Florida Statutes, are amended, and subsections (13) and (14) are added to said section, to read:

101.5606 Requirements for approval of systems.—No electronic or electromechanical voting system shall be approved by the Department of State unless it is so constructed that:

(3)*(a)* The automatic tabulating equipment will be set to reject all votes for any office or measure when the number of votes therefor exceeds the number which the voter is entitled to cast or when the voter is not entitled to cast a vote for the office or measure.

(b) The automatic tabulating equipment will be set to reject a ballot which the tabulating equipment reads as a ballot with no votes cast.

(10) It is capable of automatically producing precinct totals in printed *and electronic format for use in producing countywide totals*~~, marked, or punched form, or a combination thereof~~.

(13) It is a precinct count tabulation system.

(14) It does not use a punch card ballot.

Section 68. Section 101.56062, Florida Statutes, is created to read:

101.56062 Voting system loan program; use; rule.—

(1) The purpose of this section is to provide assistance to counties to purchase voting systems necessary to conduct elections.

(2) The department is authorized to make and administer loans to eligible counties for the purpose of purchasing voting systems and ancillary equipment needed to record and tabulate a vote in each precinct for any election held by the county supervisor of elections.

(3) The term of loans made pursuant to this section shall be interest free and not exceed 10 years.

(4) The department is authorized to adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section. Such rules shall set forth, a median price range which the cost of voting systems shall not exceed for the purpose of procuring loans under this section, and a priority system for loans based on need. The department shall consider the cost of similar voting systems within the state in determining the median price range. The priority system shall give special consideration to the following:

(a) The county millage rate;

(b) Growth in the county's tax base over the last 3 years;

(c) The financial health of the county;

(d) The financial ability of the county to repay the loan;

(e) The median household income of the county population;

(f) Poverty rate estimates;

(g) Per capita income level; and

(h) Any other reliably documented measures of disadvantage status.

(5)(a) If a county defaults under the terms of its loan agreement, the department shall so certify to the Comptroller, who shall forward the amount delinquent to the department from any unobligated funds due to the county under any revenue-sharing or tax-sharing fund established by the state, except as otherwise provided by the State Constitution. Certification of delinquency shall not limit the department from pursuing other remedies available for default on a loan, including accelerating loan repayments.

(b) The department may impose a penalty for delinquent loan payments in the amount of 5 percent of the amount due, in addition to charging the cost to handle and process the debt. Penalty interest shall accrue on any amount due and payable beginning on the 30th day following the date upon which payment is due.

(6) The department is authorized to terminate or rescind a financial assistance agreement when the county fails to comply with the terms and conditions of the agreement.

(7) A county that has secured a loan pursuant to this section and meets any of the conditions set forth in s. 218.503(1)(a)-(d) may petition the Governor for suspension of payment of the loan principle and, if applicable, unpaid penalties. The Governor is authorized to suspend any payment of a loan secured pursuant to this section, including any unpaid penalties, for any county that has fulfilled the requirements of this subsection.

Section 69. Paragraph (b) of subsection (1) of section 101.5607, Florida Statutes, is amended to read:

101.5607 Department of State to maintain voting system information; prepare software.—

(1)

(b) Within 24 hours after the completion of any logic and accuracy test conducted pursuant to s. 101.5612~~(1)~~, the supervisor of elections shall send by certified mail to the Department of State a copy of the tabulation program which was used in the logic and accuracy testing.

Section 70. Paragraph (b) of subsection (2) of section 101.5608, Florida Statutes, is amended to read:

101.5608 Voting by electronic or electromechanical method; procedures.—

(2) When an electronic or electromechanical voting system utilizes a ballot card or paper ballot, the following procedures shall be followed:

(b) Any voter who spoils his or her ballot or makes an error may return the ballot to the election official and secure another ballot, except that in no case shall a voter be furnished more than three ballots. *If the vote tabulation device has rejected a ballot, the ballot shall be considered spoiled and a new ballot shall be provided to the voter. The election official, without examining the original ballot, shall state the possible reasons for the rejection and direct the voter to the instruction model provided at the precinct pursuant to s. 101.5611.* A spoiled ballot shall be preserved, without examination, in an envelope provided for that purpose. The stub shall be removed from the ballot and placed in an envelope.

Section 71. Section 101.5612, Florida Statutes, is amended to read:

101.5612 Testing of tabulating equipment.—

(1) All electronic or electromechanical voting systems shall be thoroughly tested at the conclusion of maintenance and programming. Tests shall be sufficient to determine that the voting system is properly programmed, the election is correctly defined on the voting system, and all of the voting system input, output, and communication devices are working properly.

(2)~~(1)~~ On any day not more than 10 days prior to the election day, the supervisor of elections shall have the automatic tabulating equipment *publicly* tested to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication once in one or more newspapers of general circulation in the county or, if there is no newspaper of general circulation in the county, by posting such notice in at least four conspicuous places in the county. The supervisor or the municipal elections official may, at the time of qualifying, give written notice of the time and location of *such public* ~~the~~ preelection test to each candidate qualifying with that office and obtain a signed receipt that such notice has been given. The Department of State shall give written notice to each statewide candidate at the time of qualifying, or immediately at the end of qualifying, that the voting equipment will be tested and advise each such candidate to contact the county supervisor of elections as to the time and location of the *public preelection test* ~~pretest~~. The supervisor or the municipal elections official shall, at least 15 days prior to an election, send written notice by certified mail to the county party chair of each political party and to all candidates for other than statewide office whose names appear on the ballot in the county and who did not receive written notification from the supervisor or municipal elections official at the time of qualifying, stating the time and location of the *public* preelection test of the automatic tabulating equipment. The canvassing board shall convene, and each member of the canvassing board shall certify to the accuracy of the test. For the test, the canvassing board may designate one member to represent it. The test shall be open to representatives of the political parties, the press, and the public. Each political party may designate one person with expertise in the computer field who shall be allowed in the central counting room when all tests are being conducted and when the official votes are being counted. Such designee shall not interfere with the normal operation of the canvassing board.

(3) For electronic or electromechanical voting systems configured to tabulate absentee ballots at a central or regional site, the public testing shall be conducted by processing a preaudited group of ballots so produced as to record a predetermined number of valid votes for each candidate and on each measure and to include one or more ballots for each office which have activated voting positions in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the cause therefor shall be corrected and an errorless count shall be made before the automatic tabulating equipment is approved. The test shall be repeated and errorless results achieved immediately before the start of the official count of the ballots and again after the completion of the official count. The programs and ballots used for testing shall be sealed and retained under the custody of the county canvassing board.

(4)(a)1. For electronic or electromechanical voting systems configured to include electronic or electromechanical tabulation devices which are distributed to the precincts, all or a sample of the devices to be used in the election shall be publicly tested. If a sample is to be tested, the sample shall consist of a random selection of at least 5 percent or 10 of the devices, whichever is greater. The test shall be conducted by processing a group of ballots, causing the device to output results for the ballots processed, and comparing the output of results to the results expected for the ballots processed. The group of ballots shall be produced so as to record a predetermined number of valid votes for each candidate and on each measure and to include for each office one or more ballots which have activated voting positions in excess of the number allowed by law in order to test the ability of the tabulating device to reject such votes.

2. If any tested tabulating device is found to have an error in tabulation, it shall be deemed unsatisfactory. For each device deemed unsatisfactory, the canvassing board shall take steps to determine the cause of the error, shall attempt to identify and test other devices that could reasonably be expected to have the same error, and shall test a number of additional devices sufficient to determine that all devices are satisfactory. Upon deeming any device unsatisfactory, the canvassing board may require all devices to be tested or may declare that all devices are unsatisfactory.

3. If the operation or output of any tested tabulation device, such as spelling or the order of candidates on a report, is in error, such problem shall be reported to the canvassing board. The canvassing board shall then determine if the reported problem warrants its deeming the device unsatisfactory.

(b) At the completion of testing under this subsection, the canvassing board or its representative, the representatives of the political parties, and the candidates or their representatives who attended the test shall witness the resetting of each device that passed to a preelection state of readiness and the sealing of each device that passed in such a manner as to secure its state of readiness until the opening of the polls.

(c) The canvassing board or its representative shall execute a written statement setting forth the tabulation devices tested, the results of the testing, the protective counter numbers, if applicable, of each tabulation device, the number of the seal securing each tabulation device at the conclusion of testing, any problems reported to the board as a result of the testing, and whether each device tested is satisfactory or unsatisfactory.

(d) Any tabulating device deemed unsatisfactory shall be reprogrammed, repaired, or replaced and shall be made available for retesting. Such device must be determined by the canvassing board or its representative to be satisfactory before it may be used in any election. The canvassing board or its representative shall announce at the close of the first testing the date, place, and time that any unsatisfactory device will be retested or may, at the option of the board, notify by telephone each person who was present at the first testing as to the date, place, and time that the retesting will occur.

(e) Records must be kept of all preelection testing of electronic or electromechanical tabulation devices used in any election. Such records are to be present and available for inspection and reference during public preelection testing by any person in attendance during such testing. The need of the canvassing board for access to such records during the testing shall take precedence over the need of other attendees to access such records so that the work of the canvassing board will not be delayed or hindered. Records of testing must include, for each device, the name of each person who tested the device and the date, place, time, and results of each test. Records of testing shall be retained as part of the official records of the election in which any device was used.

~~(2) The test shall be conducted by processing a preaudited group of ballots so produced as to record a predetermined number of valid votes for each candidate and on each measure and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating equipment is approved. The test shall be repeated immediately before the start of the official count of the ballots in the same manner as set forth above. After the completion of the count, the test shall be repeated. The programs and ballots used shall be sealed and retained under the custody of the county canvassing board.~~

Section 72. Effective September 2, 2002, subsections (1), (2), (3), and (7) of section 101.5614, Florida Statutes, as amended by this act, are amended to read:

101.5614 Canvass of returns.—

(1)~~(a)~~ In precincts in which an electronic or electromechanical voting system is used, as soon as the polls are closed, the election board shall secure the voting devices against further voting. The election board shall thereafter open the ballot box in the presence of members of the public desiring to witness the proceedings and count the number of voted ballots, unused ballots, provisional ballots, and spoiled ballots to ascertain whether such number corresponds with the number of ballots issued by the supervisor. If there is a difference, this fact shall be reported in writing to the county canvassing board with the reasons therefor if known. The total number of voted ballots shall be entered on the forms provided. The proceedings of the election board at the precinct after the polls have closed shall be open to the public; however, no person except a member of the election board shall touch any ballot or ballot container or interfere with or obstruct the orderly count of the ballots.

~~(b) In lieu of opening the ballot box at the precinct, the supervisor may direct the election board to keep the ballot box sealed and deliver it to a central or regional counting location. In this case, the election board shall count the stubs removed from the ballots to determine the number of voted ballots.~~

~~(2)(a) If the ballots are to be tallied at a central location or at no more than three regional locations, the election board shall place all ballots that have been cast and the unused, void, provisional, and defective ballots in the container or containers provided for this purpose, which shall be sealed and delivered forthwith to the central or regional counting location or other designated location by two inspectors who shall not, whenever possible, be of the same political party. The election board shall certify that the ballots were placed in such container or containers and each container was sealed in its presence and under its supervision, and it shall further certify to the number of ballots of each type placed in the container or containers.~~

(2)~~(b) If ballots are to be counted at the precincts, such ballots shall be counted pursuant to rules adopted by~~ The Department of State~~, which rules~~ shall*, in accordance with s. 101.015, adopt rules that* provide safeguards ~~which conform as nearly as practicable to the safeguards provided in the procedures~~ for the counting of votes at *a precinct and at* a central *or regional* location.

~~(3)(a) All proceedings at the central or regional counting location or other designated location shall be under the direction of the county canvassing board and shall be open to the public, but no person except a person employed and authorized for the purpose shall touch any ballot or ballot container, any item of automatic tabulating equipment, or any~~

~~return prior to its release. If the ballots are tabulated at regional locations, one member of the canvassing board or a person designated by the board to represent it shall be present at each location during the testing of the counting equipment and the tabulation of the ballots.~~

(3)~~(b)~~ *The results of* ~~If~~ ballots ~~are~~ tabulated at *precinct* ~~regional~~ locations~~, the results of such election~~ may be transmitted ~~via dedicated teleprocessing lines~~ to the main computer system for the purpose of compilation of complete returns. The security guidelines for transmission of returns ~~by dedicated teleprocessing lines~~ shall conform to rules adopted by the Department of State pursuant to s. 101.015.

(7) Absentee ballots may be counted by automatic tabulating equipment if they have been ~~punched or~~ marked in a manner which will enable them to be properly counted by such equipment.

Section 73. Effective September 2, 2002, section 101.58, Florida Statutes, is amended to read:

101.58 Supervising and observing registration and election processes.—The Department of State may, at any time it deems fit,~~;~~ upon the petition of 5 percent of the registered electors~~;~~ or upon the petition of any candidate, county executive committee chair, state committeeman or committeewoman, or state executive committee chair, appoint one or more deputies whose duties shall be to observe and examine the registration and election processes and the condition, custody, and operation of *the* voting *system and equipment* ~~machines~~ in any county or municipality. The deputy shall have access to all registration books and records as well as any other records or procedures relating to the voting process. The deputy may supervise preparation of the election *equipment* ~~machines~~ and procedures for election, and it shall be unlawful for any person to obstruct the deputy in the performance of his or her duty. The deputy shall file with the Department of State a report of his or her findings and observations of the registration and election processes in the county or municipality, and a copy of the report shall also be filed with the clerk of the circuit court of said county. The compensation of such deputies shall be fixed by the Department of State; and costs incurred under this section shall be paid from the annual operating appropriation made to the Department of State.

Section 74. Effective September 2, 2002, subsection (1) of section 101.64, Florida Statutes, is amended to read:

101.64 Delivery of absentee ballots; envelopes; form.—

(1) The supervisor shall enclose with each absentee ballot two envelopes: a secrecy envelope, into which the absent elector shall enclose his or her marked ballot; and a mailing envelope, into which the absent elector shall then place the secrecy envelope, which shall be addressed to the supervisor and also bear on the back side a certificate in substantially the following form:

Note: Please Read Instructions Carefully Before
Marking Ballot and Completing Voter's Certificate.

VOTER'S CERTIFICATE

I, ... , am a qualified and registered voter of . . . . County, Florida. I understand that if I commit or attempt to commit any fraud in connection with voting, vote a fraudulent ballot, or vote more than once in an election, I can be convicted of a felony of the third degree and fined up to $5,000 and/or imprisoned for up to 5 years. I also understand that failure to sign this certificate and have my signature witnessed will invalidate my ballot. I am entitled to vote an absentee ballot for one of the following reasons:

1. I am unable without another's assistance to attend the polls.

2. I may not be in the precinct of my residence during the hours the polls are open for voting on election day.

3. I am an inspector, a poll worker, a deputy voting *system* ~~machine~~ custodian, a deputy sheriff, a supervisor of elections, or a deputy supervisor who is assigned to a different precinct than that in which I am registered.

4. On account of the tenets of my religion, I cannot attend the polls on the day of the general, special, or primary election.

5. I have changed my permanent residency to another county in Florida within the time period during which the registration books are closed for the election. I understand that I am allowed to vote only for national and statewide offices and on statewide issues.

6. I have changed my permanent residency to another state and am unable under the laws of such state to vote in the general election. I understand that I am allowed to vote only for President and Vice President.

7. I am unable to attend the polls on election day and am voting this ballot in person at the office of, and under the supervision of, the county supervisor of elections.

. . .(Voter's Signature). . .
. . .(Last four digits of voter's social security number). . .
Note: Your Signature Must Be Witnessed By Either:

a. A Notary or Officer Defined in Item 6.b. of the Instruction Sheet.

Sworn to (or affirmed) and subscribed before me this . . . . day of . . . . . , . . .(year). . . , by . . .(name of person making statement). . . . My commission expires this . . . . day of . . . . . , . . .(year). . . .
. . .(Signature of Official). . .
. . .(Print, Type, or Stamp Name). . .
. . .(State or Country of Commission). . .

Personally Known . . . . . OR Produced Identification . . . . . .

Type of Identification Produced . . . . . .

OR

b. One Witness, who is a registered voter in the State.

I swear or affirm that the voter signed this Voter's Certificate in my presence and that, unless certified as an absentee ballot coordinator, I have not witnessed more than 5 ballots for this election.

WITNESS:
. . .(Signature of Witness). . .
. . .(Printed Name of Witness). . .
. . .(Voter I.D. Number of Witness and County of Registration). . .
. . .(Address). . .
. . .(City/State). . .

Section 75. Effective September 2, 2002, subsection (2) of section 101.71, Florida Statutes, is amended to read:

101.71 Polling place.—

(2) Notwithstanding the provisions of subsection (1), whenever the supervisor of elections of any county determines that the accommodations for holding any election at a polling place designated for any precinct in the county are unavailable or are inadequate for the expeditious and efficient housing and handling of voting and voting paraphernalia, ~~including voting machines where used,~~ the supervisor may provide, not less than 30 days prior to the holding of an election, that the voting place for such precinct shall be moved to another site which shall be accessible to the public on election day in said precinct or, if such is not available, to another site which shall be accessible to the public on election day in a contiguous precinct. If such action of the supervisor results in the voting place for two or more precincts being located for the purposes of an election in one building, the voting places for the several precincts involved shall be established and maintained separate from each other in said building. When any supervisor moves any polling place pursuant to this subsection, the supervisor shall, not more than 30 days or fewer than 7 days prior to the holding of an election, give notice of the change of the polling place for the precinct involved, with clear description of the voting place to which changed, at least once in a newspaper of general circulation in said county. A notice of the change of the polling place involved shall be mailed, at least 14 days prior to an election, to each registered elector or to each household in which there is a registered elector.

Section 76. Effective September 2, 2002, subsection (1) of section 101.75, Florida Statutes, is amended to read:

101.75 Municipal elections; change of dates for cause.—

(1) In any municipality, when the date of the municipal election falls on the same date as any statewide or county election and *the* voting *devices of the voting system used in the county* ~~machines~~ are not available for both elections, the municipality may provide that the municipal election may be held within 30 days prior to or subsequent to the statewide or county election.

Section 77. Effective September 2, 2002, subsections (4) and (7) of section 102.012, Florida Statutes, are amended to read:

102.012 Inspectors and clerks to conduct elections.—

(4)*(a) The election board of each precinct shall attend the polling place by 6 a.m. of the day of the election and shall arrange the furniture, stationery, and voting equipment.*

(b) An election board shall conduct the voting, beginning and closing at the time set forth in s. 100.011. If more than one board has been appointed, the second board shall, upon the closing of the polls, come on duty and count the votes cast. In such case, the first board shall turn over to the second board all closed ballot boxes, registration books, and other records of the election at the time the boards change. The second board shall continue counting until the count is complete or until 7 a.m. the next morning, and, if the count is not completed at that time, the first board that conducted the election shall again report for duty and complete the count. The second board shall turn over to the first board all ballots counted, all ballots not counted, and all registration books and other records and shall advise the first board as to what has transpired in tabulating the results of the election.

~~(7) For any precinct using voting machines, there shall be one election board appointed, plus an additional inspector for each machine in excess of one; however, the supervisor of elections may appoint a greater number of additional inspectors than required by this subsection.~~

Section 78. Effective September 2, 2002, subsection (3) of section 102.141, Florida Statutes, is amended to read:

102.141 County canvassing board; duties.—

(3) The canvass, except the canvass of absentee electors' returns, shall be made from the returns and certificates of the inspectors as signed and filed by them with the county court judge and supervisor, respectively, and the county canvassing board shall not change the number of votes cast for a candidate, nominee, constitutional amendment, or other measure submitted to the electorate of the county, respectively, in any polling place, as shown by the returns. All returns shall be made to the board on or before noon of the day following any primary, general, special, or other election. If the returns from any precinct are missing, if there are any omissions on the returns from any precinct, or if there is an obvious error on any such returns, the canvassing board shall order a recount of the returns from such precinct. Before canvassing such returns, the canvassing board shall examine the ~~counters on the machines or the~~ tabulation of the ballots cast in such precinct and determine whether the returns correctly reflect the votes cast. If there is a discrepancy between the returns and the ~~counters of the machines or the~~ tabulation of the ballots cast, the ~~counters of such machines or the~~ tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly.

Section 79. Subsections (8) and (9) of section 103.101, Florida Statutes, are amended to read:

103.101 Presidential preference primary.—

(8) All names of candidates or delegates shall be listed as directed by the Department of State. ~~The ballot as prescribed in this section shall be used.~~

~~(9) The presidential preference primary ballot shall be in substantially the following form:~~

~~OFFICIAL PRESIDENTIAL PREFERENCE PRIMARY BALLOT~~

~~No. . . . . Party~~

~~. . . . COUNTY, FLORIDA~~

~~Precinct No. . . . .~~

~~. . .(Date). . .~~

~~. . .(Signature of Voter). . . . . (Initials of Issuing Official). . .~~

~~Stub No. 1~~

~~OFFICIAL PRESIDENTIAL PREFERENCE PRIMARY BALLOT~~

~~No. . . . . Party~~

~~. . . . COUNTY, FLORIDA~~

~~Precinct No. . . . .~~

~~. . .(Date). . .~~

~~. . . (Initials of Issuing Official). . .~~

~~Stub No. 2~~

~~OFFICIAL PRESIDENTIAL PREFERENCE PRIMARY BALLOT~~

~~. . . . Party~~

~~. . . . COUNTY, FLORIDA~~

~~Precinct No. . . . .~~

~~. . .(Date). . .~~

~~Place a cross (X) in the blank space to the right of the name of the presidential candidate for whom you wish to vote,~~

~~For President~~

~~. . .(Name of Candidate). . .~~

~~. . .(Name of Candidate). . .~~

~~or place a cross (X) in the blank space to the right of the name of the delegate(s) for whom you wish to vote.~~

~~. . .(Name of Delegate). . . . . (Name of Candidate). . .~~

Section 80. Effective September 2, 2002, section 104.30, Florida Statutes, is amended to read:

104.30 Voting *systems* ~~machine~~; unlawful possession; tampering.—

(1) Any unauthorized person who unlawfully has possession of any voting *system or component* ~~machine or key~~ thereof *commits* ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who tampers or attempts to tamper with or destroy any voting *system or equipment* ~~machine~~ with the intention of interfering with the election process or the results thereof *commits* ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 81. Effective September 2, 2002, section 138.05, Florida Statutes, is amended to read:

138.05 Form of ballot.—The clerk of the circuit court of any county in this state, when the names of the towns, villages, and cities required in s. 138.04 have been furnished him or her, shall have printed, at the expense of the county, a suitable ballot to be used in said election, said ballot to contain, in alphabetical order, the names of all such towns, villages, and cities, and no other places shall be printed on ~~the~~ said ballots~~; provided, that in counties where the use of voting machines is now or may hereafter be authorized by law, the requirements of this section shall, insofar as practicable, be adapted to the use of said voting machines~~.

Section 82. *Sections 101.141, 101.181, 101.191, and 101.5609, Florida Statutes, are repealed.*

Section 83. *Effective September 2, 2002, sections 101.011, 101.27, 101.28, 101.29, 101.32, 101.33, 101.35, 101.36, 101.37, 101.38, 101.39, 101.40, 101.445, 101.45, 101.46, 101.47, 101.54, 101.55, and 101.56, Florida Statutes, are repealed.*

Section 84. *The Division of Elections of the Department of State shall provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 15, 2001, detailing the progress that each county required by this act to upgrade a voting system has made toward the implementation of such system. This section shall take effect July 1, 2001.*

Section 85. *Funding for the implementation of this act shall be as provided for in the 2001-2002 General Appropriations Act. This section shall take effect July 1, 2001.*

Section 86. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 87. Except as otherwise provided herein, this act shall take effect July 1, 2001.

And the title is amended as follows:
remove from the title of the bill: everything before the enacting clause

and insert in lieu thereof: A bill to be entitled An act relating to elections; amending s. 97.021, F.S.; defining the terms "error in the vote tabulation" and "provisional ballot"; revising the definition of "primary election"; amending s. 100.061, F.S.; providing for a single primary election, including the date for holding that election; providing that candidates receiving the highest number of votes in the primary election are declared nominated; providing a method for deciding tie votes; repealing s. 100.091, F.S., relating to the second primary election, to conform; repealing s. 100.096, F.S., relating to the holding of special elections in conjunction with the second primary election, to conform; amending ss. 97.055, 97.071, 97.1031, and 98.081, F.S., relating to restrictions on changing party affiliation between primary elections, to conform; amending s. 99.063, F.S.; revising the date to designate a Lieutenant Governor running mate, to conform; amending s. 101.62, F.S.; revising the dates for mailing absentee ballots to absent electors overseas and eliminating advance absentee ballots, to conform; amending ss. 10.1008, 99.061, 99.095, 99.103, 100.071, 100.081, 100.111, 100.141, 101.251, 101.252, 103.021, 103.022, 103.091, 105.031, 105.041, 105.051, 106.07, and 106.29, F.S.; revising and deleting references, to conform; amending s. 106.08, F.S.; increasing campaign contribution limits; providing penalties; revising and deleting references to the primary elections, to conform; creating s. 98.0977, F.S.; providing for development of a statewide voter registration database; providing for update of information in the database; requiring quarterly progress reports to the Legislature until fully implemented; providing for an operational date; providing for an appropriation; creating s. 98.0979, F.S.; providing that voter registration information is public except for information made confidential by law; providing requirements for securing copies of any voter registration information; creating s. 101.048, F.S.; authorizing and providing requirements for provisional ballots, including the canvassing thereof; amending s. 101.045, F.S.; requiring verification of an elector's eligibility if the elector's name is not on the precinct register; authorizing the voting of a provisional ballot if eligibility cannot be determined; amending s. 101.5614, F.S., relating to the canvass of returns; providing for provisional ballots, to conform; providing a penalty for releasing the results of an election prior to the closing of the polls; amending s. 101.68, F.S.; allowing the processing of absentee ballots through electronic tabulating equipment prior to election day; prohibiting the release of the results of a canvassing or processing of absentee ballots prior to the closing of the polls; providing a penalty; amending s. 101.69, F.S.; allowing a voter who has requested an absentee ballot and who decides to vote at the polls on election day to vote a provisional ballot, if the absentee ballot is not returned; amending s. 102.111, F.S.; revising membership of the Elections Canvassing Commission; revising provisions for filling vacancies on the commission; amending s. 102.112, F.S.; revising the deadline for submission of county returns to the Department of State following the general election; eliminating reference to the second primary election; providing that late returns shall be ignored; providing an exception due to an emergency; eliminating provisions establishing fines for late reporting; amending s. 102.141, F.S.; clarifying canvassing procedures relating to election recounts; providing conditions under which a manual recount is required; amending s. 102.166, F.S.; modifying protest procedures and deadlines for requesting a manual recount; providing for the use of certain standards for determining voter intent; amending s. 102.167, F.S.; providing the form of protest of election returns with the Elections Canvassing Commission; amending s. 102.168, F.S.; providing that an unsuccessful candidate is the proper party to bring an election contest for certain elections; providing that any elector is the proper party to bring an election contest for elections involving a referendum; clarifying the circumstances under which a person may bring an election contest; providing that the Elections Canvassing Commission is a defendant in certain contested elections; removing certain authority of circuit judges to fashion orders relating to contests; amending s. 99.096, F.S.; providing conditions for automatic ballot access for minor party candidates without having to pay a filing fee or qualify by the alternative method, if otherwise qualified; amending s. 106.31, F.S.; providing legislative intent with respect to public campaign financing; amending s. 106.33, F.S.; prohibiting the use of contributions from individuals who are not state residents to meet the eligibility threshold for receiving election campaign financing; amending s. 106.35, F.S.; providing that certain contributions may not be used as qualifying matching contributions; repealing s. 98.0975, F.S., relating to list maintenance of the central voter file; amending s. 98.255, F.S.; providing for nonpartisan voter education; requiring the supervisors of elections to report to the Division of Elections on voter-education programs; requiring the division to report to the Legislature on the effectiveness of voter-education programs; creating s. 102.014, F.S.; providing for pollworker recruitment and training; repealing s. 102.012(8) and (9), F.S., relating to pollworker training; amending s. 102.021, F.S., revising a cross reference, to conform; amending s. 101.031, F.S.; providing for a Voter's Bill of Rights and Responsibilities; providing responsibilities of supervisors of elections; amending s. 97.021, F.S.; revising certain definitions applicable to the Florida Election Code to remove provisions relating to voting systems that use voting machines or paper ballots and to restrict such definitions to electronic or electromechanical voting systems; amending s. 101.151, F.S.; providing general specifications for ballots; deleting provisions specific to certain elections and voting systems; requiring the Department of State to adopt rules prescribing uniform primary and general election ballots for each certified voting system; amending s. 101.5603, F.S.; revising definitions relating to the Electronic Voting Systems Act to specify touchscreen voting systems as electronic or electromechanical voting systems and to remove provisions relating to voting machines; amending s. 101.5604, F.S.; requiring any electronic or electromechanical voting system used by a county to be a precinct tabulation system; amending s. 101.5606, F.S.; providing additional requirements for electronic or electromechanical voting systems; creating s. 101.56062, F.S.; establishing a loan program for counties to purchase voting equipment; providing the terms and conditions of such loans; providing for a priority system based on county need; providing penalties for default or delinquent payments; providing for suspension of payment of principal and penalties under certain financial emergency conditions; providing rulemaking authority; amending s. 101.5607, F.S.; conforming a cross reference; amending s. 101.5608, F.S.; providing procedures to be followed after a vote tabulation device rejects a ballot; amending s. 101.5612, F.S.; providing standards and requirements for the testing of electronic or electromechanical voting systems; providing recordkeeping requirements; amending s. 101.5614, F.S.; removing references to the canvassing of returns at central or regional locations, to conform; revising requirements for the transmission of precinct returns; providing for adoption of security guidelines by rule; amending s. 101.292, F.S.; modifying the definition of "voting equipment," applicable to purchasing requirements, to remove provisions relating to voting machines; amending s. 104.30, F.S.; prohibiting any unauthorized person from unlawfully possessing any voting system or component thereof; prohibiting any person from tampering or attempting to tamper with or destroying any voting system or

equipment with the intention of interfering with the election process or the results thereof; providing penalties; removing references to voting machines, to conform; amending ss. 98.471, 100.071, 100.361, 101.21, 101.24, 101.34, 101.341, 101.43, 101.49, 101.58, 101.64, 101.71, 101.75, 102.012, 102.141, 103.101, and 138.05, F.S.; removing provisions relating to voting systems that use voting machines or paper ballots and revising references to conform to changes made by the act; repealing ss. 101.141, 101.181, 101.191, and 101.5609, F.S., relating to the specifications and form of ballots, to conform; repealing ss. 101.011, 101.27, 101.28, 101.29, 101.32, 101.33, 101.35, 101.36, 101.37, 101.38, 101.39, 101.40, 101.445, 101.45, 101.46, 101.47, 101.54, 101.55, and 101.56, F.S., relating to voting systems that use voting machines or paper ballots, to conform; requiring the Division of Elections to provide the Governor and Legislature a progress report on the upgrading of county voting systems; providing that funding for implementation of the act shall be as provided for in the General Appropriations Act; providing severability; providing effective dates.

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

On motion by Rep. Goodlette, the rules were waived and CS for SB 1118, as amended, was read the third time by title. On passage, the vote was:

Session Vote Sequence: 209

Yeas—71

The Chair	Bowen	Gibson	Mayfield
Alexander	Brown	Goodlette	Maygarden
Allen	Brummer	Green	Melvin
Andrews	Byrd	Haridopolos	Miller
Argenziano	Cantens	Harrell	Needelman
Arza	Carassas	Harrington	Negron
Attkisson	Clarke	Hart	Paul
Atwater	Davis	Hogan	Pickens
Baker	Detert	Johnson	Ross
Ball	Diaz de la Portilla	Jordan	Rubio
Baxley	Diaz-Balart	Kallinger	Russell
Bean	Dockery	Kilmer	Simmons
Bennett	Farkas	Kottkamp	Sorensen
Bense	Fasano	Kravitz	Spratt
Benson	Fiorentino	Littlefield	Trovillion
Berfield	Flanagan	Lynn	Wallace
Betancourt	Garcia	Mack	Waters
Bilirakis	Gardiner	Mahon	

Nays—37

Ausley	Greenstein	Lee	Slosberg
Bendross-Mindingall	Harper	Lerner	Smith
Bucher	Henriquez	Machek	Sobel
Bullard	Heyman	McGriff	Weissman
Cusack	Holloway	Rich	Wiles
Fields	Jennings	Richardson	Wilson
Frankel	Joyner	Ritter	Wishner
Gannon	Justice	Romeo	
Gelber	Kendrick	Ryan	
Gottlieb	Kosmas	Seiler	

Votes after roll call:
Yeas—Murman, Kyle

So the bill passed, as amended. On motion by Rep. Goodlette, the House requested the Senate to concur, or failing to concur, requested the Senate to appoint a committee of conference to meet with a like committee appointed by the House. The action, together with the bill and amendment thereto, was immediately certified to the Senate.

Rep. Goodlette moved that the House take up HB 1519, which was agreed to.

HB 1519—A bill to be entitled An act relating to disability services; creating s. 402.74, F.S; creating the Clearinghouse on Disability Information Office in the Department of Management Services; requiring the office to establish a statewide toll-free disability information and referral system; creating an advisory council; providing qualifications for staff of the office; providing for the sharing of information by state agencies; providing for an annual report; providing an effective date.

—was read the second time by title.

REPRESENTATIVE BALL IN THE CHAIR

The Committee on State Administration offered the following:

(Amendment Bar Code: 904451)

Amendment 1—On page 3, line 28,
remove from the bill: *TTY*

and insert in lieu thereof: *Telecommunication Devices for the Deaf*

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

The Committee on General Government Appropriations offered the following:

(Amendment Bar Code: 520959)

Amendment 2—On page 8, between lines 4 and 5, of the bill

insert: *(12) The provisions of this section shall be implemented to the extent of available appropriations contained in the annual General Appropriations Act for such purpose.*

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

The Committee on General Government Appropriations offered the following:

(Amendment Bar Code: 621189)

Amendment 3—On page 4, line 4
remove from the bill: *20*

and insert in lieu thereof: *19*

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

The Committee on General Government Appropriations offered the following:

(Amendment Bar Code: 113911)

Amendment 4—On page 4, lines 16 through 19
remove from the bill: all of said lines

and insert in lieu thereof:

4. Providing a forum for exchanging information between the disability community and the office regarding important changes in disability services and systems and information and referral services offered by the office;

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

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

HB 853—A bill to be entitled An act relating to Pinellas County; providing for the composition of members of the Pinellas County Tourist Development Council appointed pursuant to section 125.0104, Florida Statutes, the "Local Option Tourist Development Act"; providing a contingent effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 074719)

Amendment 1—In the title, on page 1, line 7,
remove from the bill: contingent

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

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 332383)

Amendment 2—On page 2, line 5,
remove from the bill: all of said line

and insert in lieu thereof: mandated by this act are effective October 1, 2001, and shall not cause the interruption of the

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

Representative(s) Trovillion offered the following:

(Amendment Bar Code: 112241)

Amendment 3—On page 1, line 17 through 31
remove from the bill: all of said lines

and insert in lieu thereof: *11 members who shall be appointed by the Pinellas County Board of County Commissioners. The chair of the Pinellas County Board of County Commissioners or any other member as designated by the chair shall serve on the council. Three members of the council shall be elected municipal officials, one of whom shall be from the most populous municipality in Pinellas County, and at least one of whom shall be from among the cities of Belleair Beach, Belleair Shore, Indian Rocks Beach, Indian Shores, Madeira Beach, North Redington Beach, Redington Beach, Redington Shores, St. Pete Beach, and Treasure Island. Seven members of the council shall be persons who are involved in the tourist industry and who have demonstrated an interest in tourist development, of which members, not less than three nor more than four shall be owners or operators of motels, hotels, recreational vehicle*

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

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

CS/HB 1385—A bill to be entitled An act relating to public meetings and public records; creating s. 414.106, F.S.; providing an exemption from public meetings requirements for meetings or portions of meetings held by the Department of Children and Family Services, Workforce Florida, Inc., a regional workforce board, or a local committee at which personal identifying information contained in records relating to temporary cash assistance which identifies a participant, participant's family, or participant's family or household member is discussed; creating s. 414.295, F.S.; providing an exemption from public records requirements for personal identifying information contained in records relating to temporary cash assistance which identifies a participant, participant's family, or participant's family or household member held by the Department of Children and Family Services, the Agency for Workforce Innovation, Workforce Florida, Inc., the Department of Management Services, the Department of Health, the Department of Revenue, the Department of Education, a regional workforce board, a local committee, or service providers under contract with any of these entities; authorizing release of such information under specified circumstances; amending s. 445.007, F.S.; providing an exemption from public meetings requirements for meetings or portions of meetings held by Workforce Florida, Inc., a regional workforce board, or a local committee at which personal identifying information contained in records relating to temporary cash assistance which identifies a participant, participant's family, or participant's family or household member is discussed; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1379—A bill to be entitled An act relating to the emergency telephone system; amending ss. 365.171, 365.172, 365.174, F.S.; transferring state control over the Florida Emergency Telephone Act and the Wireless Emergency Communications Act from the Department of Management Services to the Office of State Technology; conforming statutory references; amending s. 365.173, F.S.; authorizing the State Treasurer to invest moneys in the Wireless Emergency Telephone System Fund; removing requirements that funds be held in escrow; revising the date for submission of the legislative budget request; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1471—A bill to be entitled An act relating to food service employee training; amending s. 509.049, F.S.; requiring the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to adopt rules for the administration of a food safety training certificate program for food service employees; requiring the division to review specified food safety training programs at the request of a public food service establishment operator; providing for division approval of food safety training programs; providing for training to be administered by a certified food service manager; providing an effective date.

—was read the second time by title.

The Committee on Business Regulation offered the following:

(Amendment Bar Code: 942363)

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

and insert in lieu thereof:

Section 1. Section 509.049, Florida Statutes, is amended to read:

509.049 Food service employee training.—

(1) The division shall adopt, by rule, minimum food safety protection standards for the training of all food service employees who are responsible for the storage, preparation, display, or serving of foods to the public in establishments regulated under this chapter. These standards shall not include an examination, but shall provide for a food safety training certificate program for food service employees to be administered by a private nonprofit provider chosen by the division.

(2) The division shall issue a request for competitive sealed proposals which includes a statement of the contractual services sought and all terms and conditions applicable to the contract. The division shall award the contract to the provider whose proposal is determined in writing to be the most advantageous to the state, taking into consideration the price and the other criteria set forth in the request for proposals. The division shall contract with a provider on a 4-year basis and is authorized to promulgate by rule a per employee fee to cover the contracted price for the program administered by the provider. In making its selection, the division shall consider factors including, but not limited to, the experience and history of the provider in representing the food service industry, the provider's demonstrated commitment to food safety, and its ability to provide a statewide program with industry support and participation.

(3) Any food safety training program established and administered to food handler employees utilized at a public food service establishment prior to *July 1, 2000, may* ~~the effective date of this act shall~~ be submitted by the operator *or the provider* to the division for its review and approval. If the food safety training program is *found to be in substantial compliance with the division's required criteria and is* approved by the division, nothing in this section shall preclude any other operator of a

food service establishment from also utilizing the approved program or require the employees of any operator to receive training from or pay a fee to the division's contracted provider. Review and approval by the division of a program or programs under this section shall include, but *need* not be limited to, the minimum food safety standards adopted by the division in accordance with this section.

(4) Approval of a program is subject to the provider's continued compliance with the division's minimum program standards. The division may conduct random audits of approved programs to determine compliance and may audit any program if it has reason to believe a program is not in compliance with this section. The division may revoke a program's approval if it finds a program to be in noncompliance with this section or the rules adopted under this section.

(5) It shall be the duty of the licensee of the public food service establishment to provide training in accordance with the described rule to all employees under the licensee's supervision or control. The licensee may designate a certified food service manager to perform this function as an agent of the licensee. ~~Food service employees must receive certification pursuant to this section by January 1, 2001.~~ Food service employees ~~hired after November 1, 2000,~~ must receive certification within 60 days after employment. Certification pursuant to this section shall remain valid for 3 years.

(6) The division may adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to administer this section. The rules may require:

(a) The use of application forms, which may require, but need not be limited to, the identification of training components of the program and an applicant affidavit attesting to the accuracy of the information provided in the application;

(b) Providers to maintain information concerning establishments where they provide training pursuant to this section;

(c) Specific food-safety-related-subject-matter training program components;

(d) The licensee to be responsible for providing proof of employee training, and the division may request production of such proof upon inspection of the establishment.

Section 2. *Subsection (6) of section 561.32, Florida Statutes, is repealed.*

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

And the title is amended as follows:

On page 1, lines 2-15,
remove from the title of the bill:

and insert in lieu thereof: An act relating to public food service establishments and alcoholic beverage licenses; amending s. 509.049, F.S.; revising provisions related to food service employee training programs; providing for audits and revocation of training program approval; providing rulemaking authority; repealing s. 561.32(6), F.S., relating to special transfer restrictions and transfer fees pertaining to alcoholic beverage licenses issued after a specified date; providing an effective date.

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

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

HB 941—A bill to be entitled An act relating to the City of Jacksonville; amending chapter 92-341, Laws of Florida, as amended; clarifying exemptions provided in the Charter of the City of Jacksonville to the civil service status of designated positions; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1785—A bill to be entitled An act relating to the City of Satellite Beach, Brevard County; amending s. 1 of the city's charter; redefining the boundaries of the city; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 873—A bill to be entitled An act relating to the City of West Palm Beach, Palm Beach County; amending section 16 of chapter 24981, Laws of Florida, as amended, relating to the West Palm Beach Police Pension Fund; revising the provision for age and service requirements for retirement; revising the provisions for early retirement; revising the provisions of the share accounts related to death of a member; revising the provisions of the deferred retirement option plan; revising the death benefit provisions; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

CS/HB 281—A bill to be entitled An act relating to financing for private not-for-profit institutions of higher education; creating the "Higher Educational Facilities Financing Act"; providing legislative findings and declarations; providing definitions; creating the Higher Educational Facilities Financing Authority; providing for membership of the authority; providing for its powers; providing criteria for and covenants relating to the authorization of the issuance of notes and revenue bonds not obligating the full faith and credit of the authority, any municipality, the state, or any political subdivision thereof; providing for loans from revenue bonds to participating institutions; providing for the validation of revenue bonds; providing for trust funds and remedies of bondholders; providing for a tax exemption; providing for agreement of the state; providing other powers and authorities incident thereto; requiring reports and audits; amending s. 196.012, F.S.; providing that institutions funded by the Higher Educational Facilities Financing Act are educational institutions for purposes of state taxation; providing an effective date.

—was read the second time by title.

The Council for Lifelong Learning offered the following:

(Amendment Bar Code: 915523)

Amendment 1—On page 13, lines 23 through 26
remove from the bill: all of said lines

insert: *maturity, not exceeding 30 years from issuance, and the interest rate of the bonds, which may be a variable rate, must be payable at a specified time;*

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

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

CS/HB 795—A bill to be entitled An act relating to the City of St. Petersburg; providing for the relief of Alfred Brinkley Roberts; authorizing and directing the City of St. Petersburg to compensate him for injuries suffered due to the negligence of an employee of the city; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 649—A bill to be entitled An act relating to law enforcement officers' disabilities; amending s. 112.18, F.S.; including county law enforcement officers within special provisions creating a presumption relating to causes of certain disabilities; providing an effective date.

—was read the second time by title.

Representative(s) Bilirakis offered the following:

(Amendment Bar Code: 024815)

Amendment 1 (with title amendment)—On page 1, line 13, through page 2, line 11,
remove from the bill: all of said lines,

and insert in lieu thereof:

112.18 Firefighters*, correctional officers,* and state *or county* law enforcement officers; special provisions relative to disability.—

(1) Any condition or impairment of health of any Florida state, municipal, county, port authority, special tax district, or fire control district firefighter*, correctional officer as defined in s. 943.10(2) and (3),* or state *or county* law enforcement officer caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death shall be presumed to have been accidental and to have been suffered in the line of duty unless the contrary be shown by competent evidence. However, any such firefighter*, correctional officer,* or state *or county* law enforcement officer shall have successfully passed a physical examination upon entering into any such service as a firefighter*, correctional officer,* or state *or county* law enforcement officer, which examination failed to reveal any evidence of any such condition. Such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance, unless the insurer and insured have negotiated for such additional benefits to be included in the policy contract.

(2) This section shall be construed to authorize the above governmental entities to negotiate policy contracts for life and disability insurance to include accidental death benefits or double indemnity coverage which shall include the presumption that any condition or impairment of health of any firefighter caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death was accidental and suffered in the line of duty, unless the contrary be shown by competent evidence.

Section 2. *The Legislature finds that a proper and legitimate state purpose is served when county law enforcement officers, correctional officers, and correctional probation officers are included in the class that benefits from the presumption that tuberculosis, heart disease, or hypertension resulting in total or partial disability or death is accidental and suffered in the line of duty unless the contrary is shown by competent evidence. Therefore, the Legislature determines and declares that this act fulfills an important state interest.*

And the title is amended as follows:

On page 1, lines 4-7,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: including county law enforcement officers, correctional officers, and correctional probation officers within special provisions creating a presumption relating to causes of certain disabilities; providing a declaration of important state interest; providing an effective date.

Rep. Bilirakis moved the adoption of the amendment.

Representative(s) Kilmer offered the following:

(Amendment Bar Code: 070393)

Amendment 1 to Amendment 1 (with title amendment)—On page 1, line 18, through page 2, line 19, of the amendment,
remove from the amendment: all of said lines,

and insert in lieu thereof:

112.18 Firefighters*, correctional officers,* and state*, county, or municipal* law enforcement officers; special provisions relative to disability.—

(1) Any condition or impairment of health of any Florida state, municipal, county, port authority, special tax district, or fire control district firefighter*, correctional officer as defined in s. 943.10(2) and (3),* or state*, county, or municipal* law enforcement officer caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death shall be presumed to have been accidental and to have been suffered in the line of duty unless the contrary be shown by competent evidence. However, any such firefighter*, correctional officer,* or state*, county, or municipal* law enforcement officer shall have successfully passed a physical examination upon entering into any such service as a firefighter*, correctional officer,* or state*, county, or municipal* law enforcement officer, which examination failed to reveal any evidence of any such condition. Such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance, unless the insurer and insured have negotiated for such additional benefits to be included in the policy contract.

(2) This section shall be construed to authorize the above governmental entities to negotiate policy contracts for life and disability insurance to include accidental death benefits or double indemnity coverage which shall include the presumption that any condition or impairment of health of any firefighter caused by tuberculosis, heart disease, or hypertension resulting in total or partial disability or death was accidental and suffered in the line of duty, unless the contrary be shown by competent evidence.

Section 2. *The Legislature finds that a proper and legitimate state purpose is served when county and municipal law enforcement*

And the title is amended as follows:

On page 3, line 5, of the amendment
remove from the title of the amendment: all of said line,

and insert in lieu thereof: including county and municipal law enforcement officers,

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

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

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

On motion by Rep. Byrd, the House moved to the consideration of HB 1197 on Special Orders.

HB 1197—A bill to be entitled An act relating to legislative oversight of governmental programs; amending s. 11.40, F.S.; authorizing the Legislative Auditing Committee to direct the Auditor General and the Office of Program Policy Analysis and Government Accountability to conduct audits, reviews, and examinations of certain entities; authorizing the Legislative Auditing Committee to conduct investigations; authorizing the Legislative Auditing Committee to hold hearings; amending s. 11.42, F.S.; revising the requirements to become Auditor General; transferring report requirement; revising the employment restrictions for employees of the Auditor General; exempting the Auditor General from certain provisions; amending s. 11.45, F.S.; revising definitions; providing for duties of the Auditor General; transferring certain district school board authority; transferring the requirement that a charter school provide for an annual financial audit; transferring the requirement that certain district school boards have certain financial audits; providing for authority of the Auditor General; providing for scheduling and staffing of audits conducted by the Auditor General; requiring the Legislative Auditing Committee to direct an audit of a municipality by the Auditor General under certain circumstances; authorizing a local governmental entity to request an audit by the Auditor General; transferring the requirement that the Office of Program Policy Analysis and Government Accountability maintain a schedule of performance audits; deleting the requirement that the Office of Program Policy Analysis and Government Accountability identify and comment upon certain alternatives in conducting a performance audit; transferring a report distribution requirement; transferring the annual financial auditing provisions related to local governmental entities; transferring the auditor selection procedures for local governmental entities, district school boards, and charter schools; transferring the penalty provisions for failure to file an annual financial audit; providing for Auditor General reporting requirements; transferring the penalty provisions for failure by a local governmental entity to pay for the cost of an audit by the Auditor General; transferring the Legislative Auditing Committee's authority to

conduct investigations; deleting the content required within an audit report issued by the Auditor General; deleting the requirement that an agency head must file a report; deleting a report issued by the Auditor General and the Office of Program Policy Analysis and Government Accountability; transferring the authority for district school boards and district boards of trustees of community colleges for performance audits and financial audits; amending s. 11.47, F.S.; requiring certain officers to provide the Office of Program Policy Analysis and Government Accountability with information; requiring the staff of the Office of Program Policy Analysis and Government Accountability to make proper examinations; providing criminal penalties for false reports; providing penalties for persons who fail to provide the Office of Program Policy Analysis and Government Accountability with records; amending s. 11.51, F.S.; deleting the provision that the Office of Program Policy Analysis and Government Accountability is a unit of the Auditor General; redefining the duties of the office; eliminating the provision requiring the Auditor General to provide administrative support for the office; requiring the office to maintain a schedule of examinations; providing authority to the office to examine certain programs; requiring the office to deliver preliminary findings; providing deadlines for responses to preliminary findings; providing protection for office workpapers; requiring the office to conduct followup reports; amending s. 11.511, F.S.; redefining the duties of the director of the Office of Program Policy Analysis and Government Accountability; revising employment restrictions for the office staff; providing for postponement of examinations; amending s. 11.513, F.S.; correcting cross references; transferring the authority of the Legislative Auditing Committee; transferring and rewording the authority of the director of the Office of Program Policy Analysis and Government Accountability to postpone projects; amending ss. 14.29, 20.2551, 288.1226, 320.08058, and 943.2569, F.S.; providing for audits of programs; amending s. 20.055, F.S.; transferring the review of state agencies' internal audit reports conducted by the Auditor General; providing responsibilities to agencies' inspectors general; amending s. 20.23, F.S.; requiring the Department of Transportation to implement certain recommendations made by the Office of Program Policy Analysis and Government Accountability; amending ss. 24.105, 39.202, 119.07, 195.084, 213.053, 944.719, and 948.15, F.S.; providing authority to the Office of Program Policy Analysis and Government Accountability to access confidential records; amending s. 24.120, F.S.; requiring the Department of the Lottery to provide access to the facilities of the department to the Office of Program Policy Analysis and Government Accountability; amending s. 27.3455, F.S.; deleting a reporting requirement; correcting cross references; amending ss. 30.51, 116.07, 122.03, 122.08, 145.022, 145.14, 154.331, 206.60, 212.08, 290.0056, 403.864, 657.008, and 946.31, F.S.; deleting obsolete provisions; amending ss. 110.109, 216.177, 216.178, 216.292, 334.0445, and 985.311, F.S.; designating the Office of Program Policy Analysis and Government Accountability as a recipient of information; amending s. 112.313, F.S.; expanding the definition of employees subject to postemployment restrictions to include the director of the Office of Program Policy Analysis and Government Accountability; amending s. 112.324, F.S.; expanding the list of persons subject to consequences regarding a breach of public trust to include the director and staff of the Office of Program Policy Analysis and Government Accountability; amending ss. 112.63, 175.261, 185.221, 189.4035, 189.412, 189.418, 189.419, 215.94, 230.23025, and 311.07, F.S.; correcting cross references; amending s. 125.01, F.S.; deleting a requirement that the Auditor General retain county audit reports for a specific period of time; amending ss. 154.11, 253.025, and 259.041, F.S.; revising provisions related to the Auditor General; amending s. 163.356, F.S.; deleting the Auditor General from the list of entities receiving a report from a community redevelopment agency; amending s. 189.428, F.S.; revising the criteria to be utilized by a local government conducting an oversight review of a special district; amending ss. 193.074 and 196.101, F.S.; requiring the Office of Program Policy Analysis and Government Accountability to maintain confidentiality of records; amending ss. 195.096, 228.056, 228.505, 455.32, and 471.038, F.S.; revising provisions related to certain audits; amending s. 215.44, F.S.; deleting the requirement that the Auditor General annually audit the State Board of Administration; revising provisions related to an examination by the Office of Program Policy Analysis and Government Accountability; creating s. 215.86, F.S.; providing for management systems and controls for state agencies; creating s. 215.98, F.S.; providing for audits of direct-support organizations and citizen support organizations; amending ss. 229.8021, 237.40, 240.299, 240.2995, 240.331, 240.3315, 240.5285, 240.711, 250.115, 266.0018, 267.17, 288.1229, 288.809, 372.0215, 413.615, 413.87, 446.609, 944.802, 960.002, and 985.4145, F.S.; providing for audits of direct-support organizations and citizen support organizations; amending s. 218.31, F.S.; providing additional definitions; amending s. 218.32, F.S.; providing that certain entities file an audit report with the Department of Banking and Finance; correcting a cross reference; providing for the Department of Banking and Finance to prescribe the format of local governmental entities that are required to provide for certain audits; transferring the penalty provisions relating to failure of a local governmental entity to file an annual financial report with the Department of Banking and Finance; amending s. 218.33, F.S.; revising provisions related to the establishment of uniform accounting practices and procedures; amending s. 218.38, F.S.; transferring penalty provisions for failure to verify or provide information to the Division of Bond Finance within the State Board of Administration; creating s. 218.39, F.S.; providing for audits of local governmental entities, district school boards, charter schools, and charter technical career centers; providing for the format of county audits; authorizing dependent special districts to be included within the audit of a county or municipality; prohibiting an independent special district from being included within the audit of a county or municipality; providing for a management letter within each audit report; providing for discussion of the auditor's findings and recommendations; providing for a response to the auditor's findings and recommendations; requiring that a predecessor auditor of a district school board provide the Auditor General with access to the prior year's working papers; requiring certain audits to be conducted in accordance with rules adopted by the Auditor General; creating s. 218.391, F.S.; providing for auditor selection procedures; amending s. 218.415, F.S.; correcting a cross reference; transferring responsibilities of the Auditor General; transferring penalty provisions; amending s. 228.093, F.S.; providing authority to the Office of Program Policy Analysis and Government Accountability to access records; requiring the Office of Program Policy Analysis and Government Accountability to maintain confidentiality of records; requiring the office to destroy personally identifiable data under certain circumstances; amending s. 230.23, F.S.; authorizing school boards to employ an internal auditor; authorizing school boards to hire independent certified public accountants; amending s. 240.214, F.S.; clarifying that accountability reports are to be designed in consultation with the Office of Program Policy Analysis and Government Accountability; amending s. 240.311, F.S.; providing authority to the Office of Program Policy Analysis and Government Accountability to require and receive supplemental data; creating s. 240.3631, F.S.; authorizing district boards of trustees of community colleges to hire an independent certified public accountant to conduct audits; amending s. 240.512, F.S.; providing authority to the Office of Program Policy Analysis and Government Accountability to require and receive supplemental data; providing authority to the Office of Program Policy Analysis and Government Accountability to access confidential records; requiring the office to maintain confidentiality; amending s. 240.551, F.S.; providing for audits of direct-support organizations; deleting a paragraph which provides for audits of direct-support organizations; amending ss. 240.609, 288.9517, 296.17, 296.41, 403.1826, 550.125, 601.15, and 744.708, F.S.; providing authority to the Office of Program Policy Analysis and Government Accountability to examine programs; amending s. 290.015, F.S.; providing responsibilities to the Office of Program Policy Analysis and Government Accountability regarding the Florida Enterprise Zone Act of 1994; amending ss. 320.023, 320.08062, and 322.081, F.S.; deleting provisions related to audits of certain organizations; requiring annual attestations of certain organizations; transferring the Auditor General's authority to conduct audits; amending s. 339.406, F.S.; revising provisions related to audits of transportation corporations; providing the Department of Transportation and the Auditor General with the authority to conduct audits of transportation corporations; amending s. 365.171, F.S.;

revising the provision related to auditing the 911 fees; correcting a cross reference; amending s. 373.45926, F.S.; replacing certain terms; amending s. 373.507, F.S.; deleting an obsolete provision; correcting a cross reference; providing for the distribution of audits of water management districts; amending ss. 402.73, 411.01, and 413.88, F.S.; deleting provisions related to an audit by the Auditor General; amending s. 403.8532, F.S.; replacing certain terms; amending s. 411.221, F.S.; adding reports issued by the Office of Program Policy Analysis and Government Accountability to the information considered in strategic plan revisions; amending s. 570.903, F.S.; transferring the authority for certain direct-support organizations to conduct business; providing for audits of direct-support organizations; amending s. 616.263, F.S.; providing the Auditor General with the authority to conduct audits; amending s. 943.25, F.S.; providing for the conduct of audits of the criminal justice trust fund; amending s. 944.512, F.S.; providing that certain costs are to be certified by a prosecuting attorney and an imprisoning entity and subject to review by the Auditor General; amending s. 957.07, F.S.; providing responsibilities for the Department of Corrections and the Auditor General; amending ss. 957.11 and 985.416, F.S.; transferring duties from the Auditor General to the Office of Program Policy Analysis and Government Accountability; repealing s. 11.149, F.S., relating to nonapplication of certain provisions to the Legislative Auditing Committee or the Auditor General; repealing s. 11.46, F.S., relating to accounting procedures; repealing s. 125.901(2)(e), F.S., relating to audits of independent special districts related to children's services; repealing ss. 215.56005(2)(l), 216.2815, 228.053(11), 228.082(6), 253.037(3), 288.906(2), 288.9616, 298.65, 348.69, 374.987(3), 380.510(8), 400.335, 403.1837(14), 440.49(14)(i), and 517.1204(14), F.S., relating to authority of the Auditor General to conduct audits; repealing s. 218.415(23), F.S., relating to local government investments; repealing s. 265.607, F.S., relating to audits of local cultural sponsoring organizations; repealing s. 331.419(3), F.S.; deleting obsolete provisions; repealing s. 339.413, F.S., relating to audits of transportation corporations; repealing s. 373.589, F.S., relating to audits of water management districts; repealing s. 388.331, F.S., relating to audits of mosquito control districts and mosquito control programs; repealing ss. 570.912, 581.195, 589.013, and 590.612, F.S., relating to direct support organizations within the Department of Agriculture; providing an effective date.

—was read the second time by title.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 774641)

Amendment 1—On page 18, lines 14-26,
remove from the bill: all of said lines,

and insert in lieu thereof:

(c) Annually conduct financial audits of all universities and district boards of trustees of community colleges.

(d) Annually conduct financial audits of the accounts and records of all district school boards in counties with populations of fewer than 125,000, according to the most recent federal decennial statewide census.

(e) Annually conduct an audit of the Wireless Emergency Telephone System Fund as described in s. 365.173.

(f) At least every 2 years, conduct operational audits of the accounts and records of state agencies and universities. In connection with these audits, the Auditor General shall give appropriate consideration to reports issued by state agencies' inspectors general or universities' inspectors general and the resolution of findings therein.

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

The Committee on State Administration offered the following:

(Amendment Bar Code: 645699)

Amendment 2 (with title amendment)—On page 48, line 15, through page 50, line 4,
remove from the bill: all of said lines,

and insert in lieu thereof:

(1) There is hereby created the Office of Program Policy Analysis and Government Accountability as a unit of the Office of the Auditor General appointed pursuant to s. 11.42. *The* ~~Such~~ office shall perform *independent examinations, program reviews, and other projects as provided by general law, concurrent resolution, or as directed by the Legislative Auditing Committee, and shall provide recommendations, training, or other services as may assist the Legislature* ~~program evaluation and justification reviews as required by s. 11.513 and performance audits as defined in s. 11.45 and shall contract for performance reviews of school districts pursuant to ss. 11.515 and 230.2302~~.

(2) The Office of Program Policy Analysis and Government Accountability is independent of the Auditor General appointed pursuant to s. 11.42 ~~and the Public Counsel appointed pursuant to s. 350.061~~ for purposes of general policies established by the Legislative Auditing Committee.

(3) The Office of Program Policy Analysis and Government Accountability shall maintain a schedule of examinations of state programs.

(4)~~(3)~~ The ~~Auditor General shall provide administrative support and services to the~~ Office of Program Policy Analysis and Government Accountability *is authorized to examine all entities and records listed in s. 11.45(3)(a)* ~~to the extent required by the Legislative Auditing Committee~~.

(5) At the conclusion of an examination, the designated representative of the director of the Office of Program Policy Analysis and Government Accountability shall discuss the examination with the official whose office is examined and submit to that official the Office of Program Policy Analysis and Government Accountability's preliminary findings. If the official is not available for receipt of the preliminary findings, clearly designated as such, delivery thereof is presumed to be made when it is delivered to his or her office. Whenever necessary, the Office of Program Policy Analysis and Government Accountability may request the official to submit his or her written statement of explanation or rebuttal within 15 days after the receipt of the findings. If the response time is not requested to be within 15 days, the official shall submit his or her response within 30 days after receipt of the preliminary findings.

And the title is amended as follows:

On page 3, lines 11-24,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: with records; amending s. 11.51, F.S.; redefining the duties of the office; eliminating the provision requiring the Auditor General to provide administrative support for the office; requiring the office to maintain a schedule of examinations; providing authority to the office to examine certain programs; requiring the office to deliver preliminary findings; providing deadlines for responses to preliminary findings; requiring the office to

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

Representative(s) Berfield offered the following:

(Amendment Bar Code: 280089)

Amendment 3 (with title amendment)—On page 59, lines 6-29,
remove from the bill: all of said lines,

And the title is amended as follows:

On page 4, lines 12-16,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: agencies' inspectors general;

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

The Council for Smarter Government offered the following:

(Amendment Bar Code: 962469)

Amendment 4 (with title amendment)—On page 71, line 6, of the bill

insert:

Section 26. Paragraph (b) of subsection (7) of s. 125.0104, Florida Statutes, is amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(7) AUTOMATIC EXPIRATION ON RETIREMENT OF BONDS.—Anything in this section to the contrary notwithstanding, if the plan for tourist development approved by the governing board of the county, as amended from time to time pursuant to paragraph (4)(d), includes the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, or auditorium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, the county ordinance levying and imposing the tax shall automatically expire upon the later of:

(a) Retirement of all bonds issued by the county for financing the same; or

(b) The expiration of any agreement by the county for the operation or maintenance, or both, of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, or museum. However, nothing herein shall preclude that county from amending the ordinance extending the tax to the extent that the board of the county determines to be necessary to provide funds with which to operate, maintain, repair, or renew and replace a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, or museum or from enacting an ordinance *which shall take effect without referendum approval* pursuant to the provisions of this section reimposing a tourist development tax, upon or following the expiration of the previous ordinance.

(Renumber subsequent sections)

And the title is amended as follows:

On page 5, line 21

after the word "time;" insert: amending s. 125.0104, F.S.; providing for reimposition of a tourist development tax without referendum approval under certain conditions;

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

The Committee on Fiscal Policy & Resources offered the following:

(Amendment Bar Code: 292465)

Amendment 5—On page 100, lines 3-7,
remove from the bill: all of said line,

and insert in lieu thereof:

(2) The county audit report shall be a single document that includes a financial audit of the county as a whole and, for each county agency other than a board of county commissioners, an audit of its financial accounts and records, including reports on compliance and internal control, management letters, and financial statements as required by rules adopted by the Auditor General. In addition to such requirements, if a board of county commissioners elects to have a separate audit of its financial accounts and records in the manner required by rules adopted by the Auditor General for other county agencies, such separate audit shall be included in the county audit report.

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

On motion by Rep. Sorensen, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Sorensen offered the following:

(Amendment Bar Code: 853581)

Amendment 6 (with title amendment)—On page 171, between lines 29 and 30, of the bill

insert:

Section 132. Subsection (2) of section 189.4042, Florida Statutes, is amended to read:

189.4042 Merger and dissolution procedures.—

(2) The merger or dissolution of an independent special district or a dependent district created and operating pursuant to a special act may only be effectuated by the Legislature unless otherwise provided by general law. If an *inactive* independent district was created by a county or municipality *through a referendum*, the county or municipality that created the district may ~~merge or~~ dissolve the district *after publishing notice as described in s. 189.4044. If an independent district was created by a county or municipality by referendum or any other procedure, the county or municipality that created the district may merge or dissolve the district* pursuant to the same procedure by which the independent district was created.~~;~~ However, for any ~~such~~ independent district that has ad valorem taxation powers, the same procedure required to grant such independent district ad valorem taxation powers shall also be required to dissolve or merge the district.

Section 133. Paragraph (b) of subsection (1) of section 189.4044, Florida Statutes, is amended to read:

189.4044 Special procedures for inactive districts.—

(1) The department shall declare inactive any special district in this state by filing a report with the Speaker of the House of Representatives and the President of the Senate which shows that such special district is no longer active. The inactive status of the special district must be based upon a finding:

(b) That a notice of the proposed declaration has been published once a week for *2* **4** weeks in a newspaper of general circulation within the county or municipality wherein the territory of the special district is located, stating the name of said special district, the law under which it was organized and operating, a general description of the territory included in said special district, and stating that any objections to the proposed declaration or to any claims against the assets of said special district shall be filed not later than 60 days following the date of last publication with the department; and

Section 134. Subsections (3), (4) and (6) of s. 189.418, Florida Statutes, are amended and subsection (5) of s. 189.418, Florida Statutes, is created to read:

189.418 Reports; *budgets;* audits.—

(1) When a new special district is created, the district must forward to the department, within 30 days after the adoption of the special act, rule, ordinance, resolution, or other document that provides for the creation of the district, a copy of the document. In addition to the document or documents that create the district, the district must also submit a map of the district, showing any municipal boundaries that cross the district's boundaries, and any county lines if the district is located in more than one county. The department must notify the local government or other entity and the district within 30 days after receipt of the document or documents that create the district as to whether the district has been determined to be dependent or independent.

(2) Any amendment, modification, or update of the document by which the district was created, including changes in boundaries, must

be filed with the department within 30 days after adoption. The department may initiate proceedings against special districts as provided in ss. 189.421 and 189.422 for failure to file the information required by this subsection.

(3) The governing body of each special district shall adopt a budget by resolution each fiscal year. The total amount available from taxation and other sources, including amounts carried over from prior fiscal years, must equal the total of appropriations for expenditures and reserves. The adopted budget must regulate expenditures of the special district, and it is unlawful for any officer of a special district to expend or contract for expenditures in any fiscal year except in pursuance of budgeted appropriations.

~~(3) Each special district shall file with the local general-purpose governing authority or authorities within the geographic boundaries of the district a copy of:~~

~~(a) The reports required by ss. 218.32 and 218.34;~~

~~(b) A complete description of all new bonds as provided in s. 218.38(1); and~~

~~(c) A map of the district and any subsequent boundary changes.~~

(4) The proposed budget of a dependent special district shall be presented in accordance with generally accepted accounting principles, contained within the general budget of the local governing authority, and be clearly stated as the budget of the dependent district. However, with the concurrence of the local governing authority, a dependent district may be budgeted separately.

~~(4) Each special district shall make provisions for an annual independent postaudit of its financial records as provided in s. 11.45. A copy of the audit shall be filed with the local governing authority or authorities.~~

(5) A local governing authority may, in its discretion, review the budget or tax levy of any special district located solely within its boundaries.

(6) All reports or information required to be filed with a local governing authority under ss. ~~11.45,~~ 189.416, 189.417, 218.32, and *218.39* ~~218.34 and~~ this section shall:

(a) When the local governing authority is a county, be filed with the clerk of the board of county commissioners.

(b) When the district is a multicounty district, be filed with the clerk of the county commission in each county.

(c) When the local governing authority is a municipality, be filed at the place designated by the municipal governing body.

Section 135. Section 189.419, Florida Statutes, is amended to read:

189.419 Effect of failure to file certain reports *or information*.—

(1) If a special district fails to file the reports *or information* required under ~~s. 11.45~~ s. 189.415, s. 189.416, s. 189.417, s. 189.418, s. 218.32, or *s. 218.39* ~~s. 218.34~~ and a description of all new bonds as provided in s. 218.38(1) with the local governing authority, the person authorized to receive and read the reports *or information* shall notify the district's registered agent and the appropriate local governing authority or authorities. At any time, the governing authority may grant an extension of time for filing the required reports *or information*, except that an extension may not exceed 30 days.

(2) If at any time the local governing authority or authorities or the board of county commissioners determines that there has been an unjustified failure to file the reports *or information* described in subsection (1), it may petition the department to initiate proceedings against the special district in the manner provided in s. 189.421.

(3) If a special district fails to file the reports *or information* required under ~~s. 11.45,~~ s. 218.32, ~~s. 218.34, or~~s. 218.38, *or s. 218.39* with the appropriate state agency, the agency shall notify the department, and the department may initiate proceedings against the special district in the manner provided in s. 189.421 or assess fines of not more than $25, with an aggregate total not to exceed $50, when formal inquiries do not resolve the noncompliance.

Section 136. Section 189.429, Florida Statutes, is amended to read:

189.429 Codification.—

(1) Each district, by December 1, 2004, shall submit to the Legislature a draft codified charter, at its expense, so that its special acts may be codified into a single act for reenactment by the Legislature, if there is more than one special act for the district. The Legislature may adopt a schedule for individual district codification. Any codified act relating to a district, which act is submitted to the Legislature for reenactment, shall provide for the repeal of all prior special acts of the Legislature relating to the district. The codified act shall be filed with the department pursuant to s. 189.418(2).

(2) The reenactment of existing law under this section shall not be construed as a grant of additional authority nor to supersede the authority of any entity pursuant to law. Exceptions to law contained in any special act that are reenacted pursuant to this section shall continue to apply.

(3) The reenactment of existing law under this section shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness. Nothing pertaining to the reenactment of existing law under this section shall be construed to affect the ability of any district to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing bonded indebtedness of the district.

Section 137. Section 218.34, Florida Statutes, is repealed.

And the title is amended as follows:

On page 11, line 26,
remove from the title of the bill: all of said line

and insert in lieu thereof: Agriculture; amending s. 189.4042, F.S.; providing that an inactive independent special district that was created by a county or municipality through a referendum may be dissolved by the county or municipality after publication of notice as required for the declaration of the inactive status of a special district; amending s. 189.4044, F.S.; reducing the number of weeks such notice of declaration of inactive status must be published; amending s. 189.418, F.S.; providing that a dependent special district may only be budgeted separately with concurrence of the local governing authority upon which said dependent special district is dependent; deleting a requirement that the proposed budget of an independent special district located in one county be filed with the county; deleting requirements for each special district to file certain reports, information, and audits with the local governing authority; amending s. 189.419, F.S., to conform; amending s. 189.429, F.S.; providing the effect of the reenactment of existing law pursuant to the required codification of a special district charter; repealing s. 218.34, F.S.; providing an effective date.

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

On motion by Rep. Sorensen, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Sorensen offered the following:

(Amendment Bar Code: 782231)

Amendment 7—On page 77, line 3 through page 78, line 10,
remove from the bill: all of said lines

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

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

On motion by Rep. Byrd, the House moved to the consideration of CS/HB 1263 on Special Orders.

CS/HB 1263—A bill to be entitled An act relating to mining; amending s. 378.035, F.S.; reserving certain funds in the Nonmandatory Land Reclamation Trust Fund for use by the Department of Environmental Protection for reclaiming lands; authorizing the department to use funds from the trust fund for the purpose of closing certain abandoned phosphogypsum stack systems; limiting the period of operation of the program; requiring the Bureau of Mine Reclamation to review the sufficiency of the trust fund to support certain objectives and make reports; amending s. 378.601, F.S.; removing limitations on an exemption from required development of regional impact review for certain heavy mineral mining operations; amending s. 403.4154, F.S.; defining the terms "phosphogypsum stack system" and "process wastewater"; authorizing the Department of Environmental Protection to take action to abate or reduce any imminent hazard caused by a phosphogypsum stack system; requiring the department to recover moneys from the owner or operator of the system; providing for attorney's fees and costs; authorizing the department to impose a lien for the recovery of such moneys; imposing certain fees upon an owner or operator who has not demonstrated financial responsibility; providing for the refund of the fee upon closure of the phosphogypsum stack; authorizing the department to expend moneys from the Nonmandatory Land Reclamation Trust Fund to close abandoned phosphogypsum stack systems; providing for a lien for the recovery of such moneys; amending s. 403.4155, F.S.; requiring the department to review certain rules and determine the adequacy of the rules; providing an appropriation; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

On motion by Rep. Byrd, the House moved to the consideration of HB 25 on Special Orders.

HB 25—A bill to be entitled An act relating to offenses against children; amending s. 787.025, F.S.; revising provisions to prohibit certain previously convicted offenders from intentionally luring or enticing, or attempting to lure or entice, a child under age 15 into a structure, dwelling, or conveyance without consent of parent or legal guardian; providing penalties; providing an effective date.

—was read the second time by title.

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 840407)

Amendment 1 (with title amendment)—On page 2, between lines 11 and 12 of the bill

insert:

Section 2. Present paragraph (d) of subsection (1) of section 800.04, Florida Statutes, is redesignated as paragraph (e) and a new paragraph (d) is added to that section to read:

800.04 Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.—

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

(d) "Presence" means that the victim of an act in violation of this section is physically present where and when the act occurs. The term does not mean that the victim must actually see or have sensory awareness of the act.

And the title is amended as follows:

On page 1, line 9, after the second semicolon

insert: amending s. 800.04, F.S.; defining the term "presence";

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

The Committee on Judicial Oversight offered the following:

(Amendment Bar Code: 145397)

Amendment 2 (with title amendment)—On page 1, line 23
remove from the bill: delete said line

and insert in lieu thereof: *child's parent or legal guardian, or who intentionally lures or entices, or attempts to lure or entice, a child under the age of 15 away from the child's parent or legal guardian without the consent of the child's parent or legal guardian,* ~~for other than a lawful~~

And the title is amended as follows:

On page 1, line 9,
remove from the title of the bill: said line

and insert in lieu thereof: legal guardian, or from intentionally luring or enticing, or attempting to lure or entice the child away from the child's parent or legal guardian; providing penalties; providing

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

On motion by Rep. Fiorentino, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Crow and Fiorentino offered the following:

(Amendment Bar Code: 122015)

Amendment 3 (with title amendment)—On page 2, between lines 11 and 12, of the bill

insert:

Section 2. Paragraph (a) of subsection (7) of section 947.1405, Florida Statutes, is amended to read:

947.1405 Conditional release program.—

(7)(a) Any inmate who is convicted of a crime committed on or after October 1, 1995, or who has been previously convicted of a crime committed on or after October 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is subject to conditional release supervision, shall have, in addition to any other conditions imposed, the following special conditions imposed by the commission:

1. A mandatory curfew from 10 p.m. to 6 a.m. The court may designate another 8-hour period if the offender's employment precludes the above specified time, and such alternative is recommended by the Department of Corrections. If the court determines that imposing a curfew would endanger the victim, the court may consider alternative sanctions.

2. If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, *school bus stop,* or other place where children regularly congregate.

3. Active participation in and successful completion of a sex offender treatment program with therapists specifically trained to treat sex offenders, at the releasee's own expense. If a specially trained therapist is not available within a 50-mile radius of the releasee's residence, the offender shall participate in other appropriate therapy.

4. A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, the offender's therapist, and the sentencing court.

5. If the victim was under the age of 18, a prohibition, until successful completion of a sex offender treatment program, on unsupervised contact with a child under the age of 18, unless authorized by the commission without another adult present who is responsible for the child's welfare, has been advised of the crime, and is approved by the commission.

6. If the victim was under age 18, a prohibition on working for pay or as a volunteer at any school, day care center, park, playground, or

other place where children regularly congregate, as prescribed by the commission.

7. Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, a prohibition on viewing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern.

8. A requirement that the releasee must submit two specimens of blood to the Florida Department of Law Enforcement to be registered with the DNA database.

9. A requirement that the releasee make restitution to the victim, as determined by the sentencing court or the commission, for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.

10. Submission to a warrantless search by the community control or probation officer of the probationer's or community controllee's person, residence, or vehicle.

Section 3. Section 794.07, Florida Statutes, is created to read:

794.07 Unlawful place of residence for persons convicted of certain sex offenses.—

(1) It is unlawful for any person who has been convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, to reside within 1,000 feet of any school, day care center, park, or playground. Any person violating this section whose conviction for s. 794.011, s. 794.05, s.800.04, s. 827.071, or s. 847.0145, was classified as a felony of the first degree or higher, commits a felony of the third degree, punishable as provided in s. 775.082 and 775.083. Any person violating this section whose conviction for s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, was classified as a felony of the second or third degree commits a misdemeanor of the first degree punishable as provided in s. 775.082 and 775.083.

(2) This section shall apply to any person convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145 for offenses which occur on or after October 1, 2001.

Section 4. Section 794.0701, Florida Statutes, is created to read:

794.0701 Unlawful place of residence for persons convicted of certain sex offenses.—

(1) It is unlawful for any person who has been convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, to reside within 1,000 feet of any school, day care center, park, or playground. Any person violating this section whose conviction for s. 794.011, s. 794.05, s.800.04, s. 827.071, or s. 847.0145, was classified as a felony of the first degree or higher, commits a felony of the third degree, punishable as provided in s. 775.082 and 775.083. Any person violating this section whose conviction for s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145, was classified as a felony of the second or third degree commits a misdemeanor of the first degree punishable as provided in s. 775.082 and 775.083.

(2) This section shall apply retroactively to any person convicted of a violation of s. 794.011, s. 794.05, s. 800.04, s. 827.071, or s. 847.0145 regardless of when the offense occurred.

And the title is amended as follows:

On page 1, line 9,

after "penalties;" insert: amending s. 947.1405, F.S.; prohibiting sexual offenders subject to conditional release supervision from living within a specified distance of certain places where children congregate; creating ss. 794.07 and 794.0701, F.S.; prohibiting persons convicted of certain sex crimes from residing within 1,000 feet of a school, day care center, park, or playground; providing penalties; providing for application;

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

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

On motion by Rep. Byrd, the House moved to the consideration of CS/HB 1819 on Special Orders.

CS/HB 1819—A bill to be entitled An act relating to insurance and illegal use of public records; amending s. 119.10, F.S.; providing a criminal penalty for use of certain report information for commercial solicitation; creating s. 456.0375, F.S.; providing a definition; requiring registration of certain clinics; providing requirements; requiring medical directors for certain clinics; providing duties and responsibilities of medical directors; authorizing the Department of Insurance to adopt rules for certain purposes; providing for enforcement; amending s. 626.989, F.S.; clarifying immunity from civil actions provisions; amending s. 627.732, F.S.; providing a definition; amending s. 627.736, F.S.; revising provisions relating to personal injury protection benefits; revising provisions for charges for treatments; providing for electronic access to certain information under certain circumstances; prohibiting compilation of and retention of such information; providing presuit notice requirements; providing for civil actions against persons convicted of fraud; amending s. 627.739, F.S.; providing limitations on certain charges by providers; amending s. 817.234, F.S.; prohibiting solicitation of specific persons involved in motor vehicle crashes; specifying certain charges as unlawful and unenforceable; amending s. 324.021, F.S.; correcting a cross reference; providing an appropriation; providing effective dates.

—was read the second time by title.

Representative(s) Waters, Brown, Wiles, McGriff, and Simmons offered the following:

(Amendment Bar Code: 160207)

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

and insert in lieu thereof:

Section 1. *Legislative findings.—The Legislature finds that the Florida Motor Vehicle No-Fault Law is intended to deliver medically necessary and appropriate medical care quickly and without regard to fault, and without undue litigation or other associated costs. The Legislature further finds that this intent has been frustrated at significant cost and harm to consumers by, among other things, fraud, medically inappropriate over-utilization of treatments and diagnostic services, inflated charges, and other practices on the part of a small number of health care providers and unregulated health care clinics, entrepreneurs, and attorneys. Many of these practices are described in the second interim report of the Fifteenth Statewide Grand Jury entitled "Report on Insurance Fraud Related to Personal Injury Protection." The Legislature hereby adopts and incorporates in this section by reference as findings the entirety of this Grand Jury report. The Legislature further finds insurance fraud related to personal injury protection takes many forms, including, but not limited to, illegal solicitation of accident victims; brokering patients among doctors, lawyers, and diagnostic facilities; unnecessary medical treatment of accident victims billed to insurers by clinics; billing of insurers by clinics for services not rendered; the intentional overuse or misuse of legitimate diagnostic tests; inflated charges for diagnostic tests or procedures arranged through brokers; and filing fraudulent motor vehicle tort lawsuits. As a result, the Legislature declares it necessary, among other things, to increase the punishment for certain offenses related to solicitation of accident victims and use of police reports, register certain clinics; subject certain diagnostic tests to maximum reimbursement allowances; prohibit the brokering of magnetic resonance imaging services; allow providers and insurers additional time to bill and pay claims in certain situations; require notification of insurers prior to initiating litigation for an overdue claim for benefits;*

and provide insurers with a civil cause of action for insurance fraud. The Legislature further declares the problem of fraud addressed in the Grand Jury report and in this act and matters connected therewith are matters of great public interest and importance to public health, safety, and welfare, and that the specific provisions of this act at the least-restrictive reasonable means by which to solve these problems.

Section 2. Subsection (3) is added to section 119.10, Florida Statutes, to read:

119.10 Violation of chapter; penalties.—

(3) Any person who willingly and knowingly violates s. 119.105 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. Effective October 1, 2001, section 456.0375, Florida Statutes, is created to read:

456.0375 Registration of certain clinics; requirements; discipline; exemptions.—

(1)(a) As used in this section, the term "clinic" means a business operating in a single structure or facility, or in a group of adjacent structures or facilities operating under the same business name or management, at which health care services are provided to individuals and which tender charges for reimbursement for such services.

(b) For purposes of this section, the term "clinic" does not include and the registration requirements herein do not apply to:

1. Entities licensed or registered by the state pursuant to chapter 390, chapter 394, chapter 395, chapter 397, chapter 400, chapter 463, chapter 465, chapter 466, chapter 478, chapter 480, or chapter 484.

2. Entities exempt from federal taxation under 26 U.S.C. s. 501(c)(3).

3. Sole proprietorships, group practices, partnerships, or corporations that provide health care services by licensed health care practitioners pursuant to chapters 457, 458, 459, 460, 461, 462, 463, 466, 467, 484, 486, 490, 491, or parts I, III, X, XIII, or XIV of chapter 468, or s. 464.012, which are wholly owned by licensed health care practitioners or the licensed health care practitioner and the spouse, parent, or child of a licensed health care practitioner, so long as one of the owners who is a licensed health care practitioner is supervising the services performed therein and is legally responsible for the entity's compliance with all federal and state laws. However, no health care practitioner may supervise services beyond the scope of the practitioner's license.

(2)(a) Every clinic, as defined in paragraph (1)(a), must register, and must at all times maintain a valid registration, with the Department of Health. Each clinic location shall be registered separately even though operated under the same business name or management, and each clinic shall appoint a medical director or clinical director.

(b) The department shall adopt rules necessary to implement the registration program, including rules establishing the specific registration procedures, forms, and fees. Registration fees must be reasonably calculated to cover the cost of registration and must be of such amount that the total fees collected do not exceed the cost of administering and enforcing compliance with this section. Registration may be conducted electronically. The registration program must require:

1. The clinic to file the registration form with the department within 60 days after the effective date of this section or prior to the inception of operation. The registration expires automatically 2 years after its date of issuance and must be renewed biennially.

2. The registration form to contain the name, residence and business address, phone number, and license number of the medical director or clinical director for the clinic.

3. The clinic to display the registration certificate in a conspicuous location within the clinic readily visible to all patients.

(3)(a) Each clinic must employ or contract with a physician maintaining a full and unencumbered physician license in accordance with chapter 458, chapter 459, chapter 460, or chapter 461 to serve as the medical director. However, if the clinic is limited to providing health care services pursuant to chapter 457, chapter 484, chapter 486, chapter 490, or chapter 491 or part I, part III, part X, part XIII, or part XIV of chapter 468, the clinic may appoint a health care practitioner licensed under that chapter to serve as a clinical director who is responsible for the clinic's activities. A health care practitioner may not serve as the clinical director if the services provided at the clinic are beyond the scope of that practitioner's license.

(b) The medical director or clinical director shall agree in writing to accept legal responsibility for the following activities on behalf of the clinic. The medical director or the clinical director shall:

1. Have signs identifying the medical director or clinical director posted in a conspicuous location within the clinic readily visible to all patients.

2. Ensure that all practitioners providing health care services or supplies to patients maintain a current active and unencumbered Florida license.

3. Review any patient referral contracts or agreements executed by the clinic.

4. Ensure that all health care practitioners at the clinic have active appropriate certification or licensure for the level of care being provided.

5. Serve as the clinic records holder as defined in s. 456.057.

6. Ensure compliance with the recordkeeping, office surgery, and adverse incident reporting requirements of chapter 456, the respective practice acts, and rules adopted thereunder.

7. Conduct systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful. Upon discovery of an unlawful charge, the medical director shall take immediate corrective action.

(c) Any contract to serve as a medical director or a clinical director entered into or renewed by a physician or a licensed health care practitioner in violation of this section is void as contrary to public policy. This section shall apply to contracts entered into or renewed on or after October 1, 2001.

(d) The department, in consultation with the boards, shall adopt rules specifying limitations on the number of registered clinics and licensees for which a medical director or a clinical director may assume responsibility for purposes of this section. In determining the quality of supervision a medical director or a clinical director can provide, the department shall consider the number of clinic employees, clinic location, and services provided by the clinic.

(4)(a) All charges or reimbursement claims made by or on behalf of a clinic that is required to be registered under this section, but that is not so registered, are unlawful charges and therefore are noncompensable and unenforceable.

(b) Any person establishing, operating, or managing an unregistered clinic otherwise required to be registered under this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any licensed health care practitioner who violates this section is subject to discipline in accordance with chapter 456 and the respective practice act.

(d) The department shall revoke the registration of any clinic registered under this section for operating in violation of the requirements of this section or the rules adopted by the department.

(e) The department shall investigate allegations of noncompliance with this section and the rules adopted pursuant to this section.

Section 4. Paragraph (c) of subsection (4) of section 626.989, Florida Statutes, is amended to read:

626.989 Investigation by department or Division of Insurance Fraud; compliance; immunity; confidential information; reports to division; division investigator's power of arrest.—

(4)

(c) In the absence of fraud or bad faith, a person is not subject to civil liability for libel, slander, or any other relevant tort by virtue of filing reports, without malice, or furnishing other information, without malice, required by this section or required by the department or division under the authority granted in this section, and no civil cause of action of any nature shall arise against such person:

1. For any information relating to suspected fraudulent insurance acts *or persons suspected of engaging in such acts* furnished to or received from law enforcement officials, their agents, or employees;

2. For any information relating to suspected fraudulent insurance acts *or persons suspected of engaging in such acts* furnished to or received from other persons subject to the provisions of this chapter; ~~or~~

3. For any such information furnished in reports to the department, *the* division, the National Insurance Crime Bureau, ~~or~~ the National Association of Insurance Commissioners*, or any local, state, or federal enforcement officials or their agents or employees; or*

4. For other actions taken in cooperation with any of the agencies or individuals specified in this paragraph in the lawful investigation of suspected fraudulent insurance acts.

Section 5. Section 627.732, Florida Statutes, is amended to read:

627.732 Definitions.—As used in ss. 627.730-627.7405*, the term*:

(1) "Broker" means any person not possessing a license under chapter 395, chapter 400, chapter 458, chapter 459, chapter 460, chapter 461, or chapter 641 who charges or receives compensation for any use of medical equipment and is not the 100-percent owner or the 100-percent lessee of such equipment. For purposes of this section, such owner or lessee may be an individual, a corporation, a partnership, or any other entity and any of its 100-percent-owned affiliates and subsidiaries. For purposes of this subsection, the term "lessee" means a long-term lessee under a capital or operating lease, but does not include a part-time lessee. The term "broker" does not include a hospital or physician management company whose medical equipment is ancillary to the practices managed, a debt collection agency, or an entity that has contracted with the insurer to obtain a discounted rate for such services; nor does the term include a management company that has contracted to provide general management services for a licensed physician or health care facility and whose compensation is not materially affected by the usage or frequency of usage of medical equipment or an entity that is 100-percent owned by one or more hospitals or physicians. The term "broker" does not include a person that certifies, upon the request of an insurer, and establishes that the person is in fact in compliance with all parts of the so-called "space rental," "equipment rental," and "personal service" safe harbors (C.F.R. Title 42, Chapter V, Subchapter B, Part 1001, Subpart 1001.952(b), (c), and (d)), as in effect and interpreted by United States federal courts and administrative enforcement agencies as of April 1, 2001. Any person making a false certification under this paragraph commits insurance fraud as defined in s. 817.234.

(2) "Medically necessary" refers to a medical service or supply that a prudent physician would provide for the purpose of preventing, diagnosing, or treating an illness, injury, disease, or symptom in a manner that is:

(a) In accordance with generally accepted standards of medical practice;

(b) Clinically appropriate in terms of type, frequency, extent, site, and duration; and

(c) Not primarily for the convenience of the patient, physician, or other health care provider.

(3)~~(1)~~ "Motor vehicle" means any self-propelled vehicle with four or more wheels which is of a type both designed and required to be licensed for use on the highways of this state and any trailer or semitrailer designed for use with such vehicle and includes:

(a) A "private passenger motor vehicle," which is any motor vehicle which is a sedan, station wagon, or jeep-type vehicle and, if not used primarily for occupational, professional, or business purposes, a motor vehicle of the pickup, panel, van, camper, or motor home type.

(b) A "commercial motor vehicle," which is any motor vehicle which is not a private passenger motor vehicle.

The term "motor vehicle" does not include a mobile home or any motor vehicle which is used in mass transit, other than public school transportation, and designed to transport more than five passengers exclusive of the operator of the motor vehicle and which is owned by a municipality, a transit authority, or a political subdivision of the state.

(4)~~(2)~~ "Named insured" means a person, usually the owner of a vehicle, identified in a policy by name as the insured under the policy.

(5)~~(3)~~ "Owner" means a person who holds the legal title to a motor vehicle; or, in the event a motor vehicle is the subject of a security agreement or lease with an option to purchase with the debtor or lessee having the right to possession, then the debtor or lessee shall be deemed the owner for the purposes of ss. 627.730-627.7405.

(6)~~(4)~~ "Relative residing in the same household" means a relative of any degree by blood or by marriage who usually makes her or his home in the same family unit, whether or not temporarily living elsewhere.

(7)~~(5)~~ "Recovery agent" means any person or agency who is licensed as a recovery agent or recovery agency and authorized under s. 324.202 to seize license plates.

Section 6. Subsections (1), (4), (5), (7), and (8) of section 627.736, Florida Statutes, and paragraph (b) of subsection (6) of that section, are amended, and subsections (11) and (12) are added to that section, to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.—

(1) REQUIRED BENEFITS.—Every insurance policy complying with the security requirements of s. 627.733 shall provide personal injury protection to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle, and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a self-propelled vehicle, subject to the provisions of subsection (2) and paragraph (4)(d), to a limit of $10,000 for loss sustained by any such person as a result of bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle as follows:

(a) Medical benefits.—Eighty percent of all reasonable expenses for *medically* necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices, and *medically* necessary ambulance, hospital, and nursing services. Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of the state for an injured person who relies upon spiritual means through prayer alone for healing, in accordance with his or her religious beliefs*; however, this sentence does not affect the determination of what other services or procedures are medically necessary*.

(b) Disability benefits.—Sixty percent of any loss of gross income and loss of earning capacity per individual from inability to work proximately caused by the injury sustained by the injured person, plus all expenses reasonably incurred in obtaining from others ordinary and necessary services in lieu of those that, but for the injury, the injured person would have performed without income for the benefit of his or her household. All disability benefits payable under this provision shall be paid not less than every 2 weeks.

(c) Death benefits.—Death benefits of $5,000 per individual. The insurer may pay such benefits to the executor or administrator of the deceased, to any of the deceased's relatives by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled thereto.

Only insurers writing motor vehicle liability insurance in this state may provide the required benefits of this section, and no such insurer shall require the purchase of any other motor vehicle coverage other than the purchase of property damage liability coverage as required by s. 627.7275 as a condition for providing such required benefits. Insurers may not require that property damage liability insurance in an amount greater than $10,000 be purchased in conjunction with personal injury protection. Such insurers shall make benefits and required property damage liability insurance coverage available through normal marketing channels. Any insurer writing motor vehicle liability insurance in this state who fails to comply with such availability requirement as a general business practice shall be deemed to have violated part X of chapter 626, and such violation shall constitute an unfair method of competition or an unfair or deceptive act or practice involving the business of insurance; and any such insurer committing such violation shall be subject to the penalties afforded in such part, as well as those which may be afforded elsewhere in the insurance code.

(4) BENEFITS; WHEN DUE.—Benefits due from an insurer under ss. 627.730-627.7405 shall be primary, except that benefits received under any workers' compensation law shall be credited against the benefits provided by subsection (1) and shall be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under ss. 627.730-627.7405. When the Agency for Health Care Administration provides, pays, or becomes liable for medical assistance under the Medicaid program related to injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle, benefits under ss. 627.730-627.7405 shall be subject to the provisions of the Medicaid program.

(a) An insurer may require written notice to be given as soon as practicable after an accident involving a motor vehicle with respect to which the policy affords the security required by ss. 627.730-627.7405.

(b) Personal injury protection insurance benefits paid pursuant to this section shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same. If such written notice is not furnished to the insurer as to the entire claim, any partial amount supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. *When an insurer pays only a portion of a claim or rejects a claim, the insurer shall include with the partial payment or rejection an itemized specification of each item that the insurer had reduced, omitted, or declined to pay and any information that the insurer desires the claimant to consider related to the medical necessity of the denied treatment or to explain the reasonableness of the reduced charge, provided that this shall not limit the introduction of evidence at trial; and the insurer shall include the name and address of the person to whom the claimant should respond and a claim number to be referenced in future correspondence.* However, *notwithstanding the fact that written notice has been furnished to the insurer,* any payment shall not be deemed overdue when the insurer has reasonable proof to establish that the insurer is not responsible for the payment~~, notwithstanding that written notice has been furnished to the insurer~~. For the purpose of calculating the extent to which any benefits are overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope or, if not so posted, on the date of delivery. *This paragraph does not preclude or limit the ability of the insurer to assert that the claim was unrelated, was not medically necessary, or was unreasonable or that the amount of the charge was in excess of that permitted under, or in violation of, subsection (5). Such assertion by the insurer may be made at any time, including after payment of the claim or after the 30-day time period for payment set forth in this paragraph.*

(c) All overdue payments shall bear simple interest at the rate *established by the Comptroller under s. 55.03 or the rate established in the insurance contract, whichever is greater, for the year in which the payment became overdue, calculated from the date the insurer was furnished with written notice of the amount of covered loss. Interest shall be due at the time payment of the overdue claim is made* ~~of 10 percent per year~~.

(d) The insurer of the owner of a motor vehicle shall pay personal injury protection benefits for:

1. Accidental bodily injury sustained in this state by the owner while occupying a motor vehicle, or while not an occupant of a self-propelled vehicle if the injury is caused by physical contact with a motor vehicle.

2. Accidental bodily injury sustained outside this state, but within the United States of America or its territories or possessions or Canada, by the owner while occupying the owner's motor vehicle.

3. Accidental bodily injury sustained by a relative of the owner residing in the same household, under the circumstances described in subparagraph 1. or subparagraph 2., provided the relative at the time of the accident is domiciled in the owner's household and is not himself or herself the owner of a motor vehicle with respect to which security is required under ss. 627.730-627.7405.

4. Accidental bodily injury sustained in this state by any other person while occupying the owner's motor vehicle or, if a resident of this state, while not an occupant of a self-propelled vehicle, if the injury is caused by physical contact with such motor vehicle, provided the injured person is not himself or herself:

a. The owner of a motor vehicle with respect to which security is required under ss. 627.730-627.7405; or

b. Entitled to personal injury benefits from the insurer of the owner or owners of such a motor vehicle.

(e) If two or more insurers are liable to pay personal injury protection benefits for the same injury to any one person, the maximum payable shall be as specified in subsection (1), and any insurer paying the benefits shall be entitled to recover from each of the other insurers an equitable pro rata share of the benefits paid and expenses incurred in processing the claim.

~~(f) Medical payments insurance, if available in a policy of motor vehicle insurance, shall pay the portion of any claim for personal injury protection medical benefits which is otherwise covered but is not payable due to the coinsurance provision of paragraph (1)(a), regardless of whether the full amount of personal injury protection coverage has been exhausted. The benefits shall not be payable for the amount of any deductible which has been selected.~~

(f)~~(g)~~ It is a violation of the insurance code for an insurer to fail to timely provide benefits as required by this section with such frequency as to constitute a general business practice.

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

(a) Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge only a reasonable amount for the ~~products,~~ services~~,~~ and *supplies* ~~accommodations~~ rendered, and the insurer providing such coverage may pay for such charges directly to such person or institution lawfully rendering such treatment, if the insured receiving such treatment or his or her guardian has countersigned the invoice, bill, or claim form approved by the Department of Insurance upon which such charges are to be paid for as having actually been rendered, to the best knowledge of the insured or his or her guardian. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like ~~products,~~ services~~,~~ or *supplies* ~~accommodations~~ in cases involving no insurance.~~, provided that~~

(b)1. An insurer or insured is not required to pay a claim made by a broker or by a person making a claim on behalf of a broker.

2. Charges for *medically necessary* cephalic thermograms, ~~and~~ peripheral thermograms*, spinal ultrasounds, extremity ultrasounds, video fluoroscopy, and surface electromyography* shall not exceed the maximum reimbursement allowance for such procedures as set forth in the applicable fee schedule *or other payment methodology* established pursuant to s. 440.13.

3. Payments by an insurer for medically necessary nerve conduction testing when done in conjunction with a needle electromyography procedure and both are performed and billed solely by a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461 who is also certified by the American Board of Electrodiagnostic Medicine or by a board recognized by the American Board of Medical Specialties or who holds diplomate status with the American Chiropractic Neurology Board or its predecessors shall not exceed 175 percent of the payment amount under Medicare Part B for year 2001, adjusted annually by an additional amount equal to the medical Consumer Price Index for Florida.

4. Payments by an insurer for medically necessary nerve conduction testing that does not meet the requirements of subparagraph 3. shall not exceed the applicable fee schedule or other payment methodology established pursuant to s. 440.13.

5. Effective upon this act becoming a law and before November 1, 2001, payments for magnetic resonance imaging services shall not exceed 200 percent of the payment amount under Medicare Part B for year 2001. Beginning November 1, 2001, payments for magnetic resonance imaging services shall not exceed 150 percent of the payment amount under Medicare Part B for year 2001, adjusted annually by an additional amount equal to the medical Consumer Price Index for Florida, except that payments for magnetic resonance imaging services provided in facilities accredited by the American College of Radiology or the Joint Commission on Accreditation of Healthcare Organizations shall not exceed 175 percent of the payment amount under Medicare Part B for year 2001, adjusted annually by an additional amount equal to the medical Consumer Price Index for Florida. This paragraph does not apply to charges for magnetic resonance imaging services and nerve conduction testing for inpatients and emergency services services and nerve conduction testing for inpatients and emergency services and care as defined in chapter 395 rendered by facilities licensed under chapter 395.

(c)~~(b)~~ With respect to any treatment or service, other than medical services billed by a hospital *or other provider* for *emergency* services *as defined in s. 395.002 or inpatient services* rendered at a hospital-owned facility, the statement of charges must be furnished to the insurer by the provider and may not include, and the insurer is not required to pay, charges for treatment or services rendered more than *35* ~~30~~ days before the postmark date of the statement, except for past due amounts previously billed on a timely basis under this paragraph, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services rendered up to, but not more than, *75* ~~60~~ days before the postmark date of the statement. The injured party is not liable for, and the provider shall not bill the injured party for, charges that are unpaid because of the provider's failure to comply with this paragraph. Any agreement requiring the injured person or insured to pay for such charges is unenforceable. *If, however, the insured fails to furnish the provider with the correct name and address of the insured's personal injury protection insurer, the provider has 35 days from the date the provider obtains the correct information to furnish the insurer with a statement of the charges. The insurer is not required to pay for such charges unless the provider includes with the statement documentary evidence that was provided by the insured during the 35-day period demonstrating that the provider reasonably relied on erroneous information from the insured and either:*

1. A denial letter from the incorrect insurer; or

2. Proof of mailing, which may include an affidavit under penalty of perjury, reflecting timely mailing to the incorrect address or insurer.

For emergency services and care as defined in s. 395.002 rendered in a hospital emergency department or for transport and treatment rendered by an ambulance provider licensed pursuant to part III of chapter 401, the provider is not required to furnish the statement of charges within the time periods established by this paragraph; and the insurer shall not be considered to have been furnished with notice of the amount of covered loss for purposes of paragraph (4)(b) until it receives a statement complying with paragraph *(e)* ~~(5)(d)~~, or copy thereof, which specifically identifies the place of service to be a hospital emergency department or an ambulance in accordance with billing standards recognized by the Health Care Finance Administration. Each notice of insured's rights under s. 627.7401 must include the following statement in type no smaller than 12 points:

> BILLING REQUIREMENTS.—Florida Statutes provide that with respect to any treatment or services, other than certain hospital and emergency services, the statement of charges furnished to the insurer by the provider may not include, and the insurer and the injured party are not required to pay, charges for treatment or services rendered more than *35* ~~30~~ days before the postmark date of the statement, except for past due amounts previously billed on a timely basis, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services rendered up to, but not more than, *75* ~~60~~ days before the postmark date of the statement.

(d)~~(c)~~ Every insurer shall include a provision in its policy for personal injury protection benefits for binding arbitration of any claims dispute involving medical benefits arising between the insurer and any person providing medical services or supplies if that person has agreed to accept assignment of personal injury protection benefits. The provision shall specify that the provisions of chapter 682 relating to arbitration shall apply. The prevailing party shall be entitled to attorney's fees and costs. For purposes of the award of attorney's fees and costs, the prevailing party shall be determined as follows:

1. When the amount of personal injury protection benefits determined by arbitration exceeds the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the insurer at arbitration, the claimant is the prevailing party.

2. When the amount of personal injury protection benefits determined by arbitration is less than the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the insurer at arbitration, the insurer is the prevailing party.

3. When neither subparagraph 1. nor subparagraph 2. applies, there is no prevailing party. For purposes of this paragraph, the amount of the offer or claim at arbitration is the amount of the last written offer or claim made at least 30 days prior to the arbitration.

4. In the demand for arbitration, the party requesting arbitration must include a statement specifically identifying the issues for arbitration for each examination or treatment in dispute. The other party must subsequently issue a statement specifying any other examinations or treatment and any other issues that it intends to raise in the arbitration. The parties may amend their statements up to 30 days prior to arbitration, provided that arbitration shall be limited to those identified issues and neither party may add additional issues during arbitration.

(e)~~(d)~~ All statements and bills for medical services rendered by any physician, hospital, clinic, or other person or institution shall be submitted to the insurer on a Health Care Finance Administration 1500

form, UB 92 forms, or any other standard form approved by the department for purposes of this paragraph. All billings for such services shall, to the extent applicable, follow the Physicians' Current Procedural Terminology (CPT) in the year in which services are rendered. No statement of medical services may include charges for medical services of a person or entity that performed such services without possessing the valid licenses required to perform such services. For purposes of paragraph (4)(b), an insurer shall not be considered to have been furnished with notice of the amount of covered loss or medical bills due unless the statements or bills comply with this paragraph.

(6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON; DISPUTES.—

(b) Every physician, hospital, clinic, or other medical institution providing, before or after bodily injury upon which a claim for personal injury protection insurance benefits is based, any products, services, or accommodations in relation to that or any other injury, or in relation to a condition claimed to be connected with that or any other injury, shall, if requested to do so by the insurer against whom the claim has been made, furnish forthwith a written report of the history, condition, treatment, dates, and costs of such treatment of the injured person, *and a response as to why certain items identified by the insurer are medically necessary and as to why certain items identified by the insurer are reasonable in amount,* together with a sworn statement that the treatment or services rendered were reasonable and necessary with respect to the bodily injury sustained and identifying which portion of the expenses for such treatment or services was incurred as a result of such bodily injury, and produce forthwith, and permit the inspection and copying of, his or her or its records regarding such history, condition, treatment, dates, and costs of treatment*; provided that this shall not limit the introduction of evidence at trial*. Such sworn statement shall read as follows: "Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief." No cause of action for violation of the physician-patient privilege or invasion of the right of privacy shall be permitted against any physician, hospital, clinic, or other medical institution complying with the provisions of this section. The person requesting such records and such sworn statement shall pay all reasonable costs connected therewith. If an insurer makes a written request for documentation *or information* under this paragraph within *30* ~~20~~ days after having received notice of the amount of a covered loss under paragraph (4)(a), *the amount or the partial amount which is the subject of the insurer's inquiry shall become overdue if the insurer does not pay* ~~the insurer shall pay the amount or partial amount of covered loss to which such documentation relates~~ in accordance with paragraph (4)(b) or within 10 days after the insurer's receipt of the requested documentation *or information*, whichever occurs later. For purposes of this paragraph, the term "receipt" includes, but is not limited to, inspection and copying pursuant to this paragraph. *Any insurer that requests documentation or information pertaining to reasonableness of charges or medical necessity under this paragraph without a reasonable basis for such requests as a general business practice is engaging in an unfair trade practice under the insurance code.*

(7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON; REPORTS.—

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon the request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within the municipality where the insured is receiving treatment, or in a location reasonably accessible to the insured, which, for purposes of this paragraph, means any location within the municipality in which the insured resides, or any location within 10 miles by road of the insured's residence, provided such location is within the county in which the insured resides. If the examination is to be conducted in a location reasonably accessible to the insured, and if there is no qualified physician to conduct the examination in a location reasonably accessible to the insured, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits. An insurer may not withdraw payment of a treating physician without the consent of the injured person covered by the personal injury protection, unless the insurer first obtains a *valid* report by a physician licensed under the same chapter as the treating physician whose treatment authorization is sought to be withdrawn, stating that treatment was not reasonable, related, or necessary. *A valid report is one that is prepared and signed by the physician examining the injured person or reviewing the treatment records of the injured person and is factually supported by the examination and treatment records if reviewed and that has not been modified by anyone other than the physician. The physician preparing the report must be in active practice, unless the physician is physically disabled. Active practice means that during the 3 years immediately preceding the date of the physical examination or review of the treatment records the physician must have devoted professional time to the active clinical practice of evaluation, diagnosis, or treatment of medical conditions or to the instruction of students in an accredited health professional school or accredited residency program or a clinical research program that is affiliated with an accredited health professional school or teaching hospital or accredited residency program.*

(b) If requested by the person examined, a party causing an examination to be made shall deliver to him or her a copy of every written report concerning the examination rendered by an examining physician, at least one of which reports must set out the examining physician's findings and conclusions in detail. After such request and delivery, the party causing the examination to be made is entitled, upon request, to receive from the person examined every written report available to him or her or his or her representative concerning any examination, previously or thereafter made, of the same mental or physical condition. By requesting and obtaining a report of the examination so ordered, or by taking the deposition of the examiner, the person examined waives any privilege he or she may have, in relation to the claim for benefits, regarding the testimony of every other person who has examined, or may thereafter examine, him or her in respect to the same mental or physical condition. If a person unreasonably refuses to submit to an examination, the personal injury protection carrier is no longer liable for subsequent personal injury protection benefits.

(8) APPLICABILITY OF PROVISION REGULATING ATTORNEY'S FEES.—With respect to any dispute under the provisions of ss. 627.730-627.7405 between the insured and the insurer, *or between an assignee of an insured's rights and the insurer,* the provisions of s. 627.428 shall apply*, except as provided in subsection (11)*.

(11) DEMAND LETTER.—

(a) As a condition precedent to filing any action for an overdue claim for benefits under paragraph (4)(b), the insurer must be provided with written notice of an intent to initiate litigation; provided, however, that, except with regard to a claim or amended claim or judgment for interest only which was not paid or was incorrectly calculated, such notice is not required for an overdue claim that the insurer has denied or reduced, nor is such notice required if the insurer has been provided documentation or information at the insurer's request pursuant to subsection (6). Such notice may not be sent until the claim is overdue, including any additional time the insurer has to pay the claim pursuant to paragraph (4)(b).

(b) The notice required shall state that it is a "demand letter under s. 627.736(11)" and shall state with specificity:

1. The name of the insured upon which such benefits are being sought.

2. The claim number or policy number upon which such claim was originally submitted to the insurer.

3. To the extent applicable, the name of any medical provider who rendered to an insured the treatment, services, accommodations, or supplies that form the basis of such claim; and an itemized statement specifying each exact amount, the date of treatment, service, or accommodation, and the type of benefit claimed to be due. A completed Health Care Finance Administration 1500 form, UB 92, or successor forms approved by the Secretary of the U.S. Department of Health and Human Services may be used as the itemized statement.

(c) Each notice required by this section must be delivered to the insurer by U.S. certified or registered mail, return receipt requested. Such postal costs shall be reimbursed by the insurer if so requested by the provider in the notice, when the insurer pays the overdue claim. Such notice must be sent to the person and address specified by the insurer for the purposes of receiving notices under this section, on the document denying or reducing the amount asserted by the filer to be overdue. Each licensed insurer, whether domestic, foreign, or alien, may file with the department designation of the name and address of the person to whom notices pursuant to this section shall be sent when such document does not specify the name and address to whom the notices under this section are to be sent or when there is no such document. The name and address on file with the department pursuant to s. 624.422 shall be deemed the authorized representative to accept notice pursuant to this section in the event no other designation has been made.

(d) If, within 7 business days after receipt of notice by the insurer, the overdue claim specified in the notice is paid by the insurer together with applicable interest and a penalty of 10 percent of the overdue amount paid by the insurer, subject to a maximum penalty of $250, no action for nonpayment or late payment may be brought against the insurer. To the extent the insurer determines not to pay the overdue amount, the penalty shall not be payable in any action for nonpayment or late payment. For purposes of this subsection, payment shall be treated as being made on the date a draft or other valid instrument that is equivalent to payment is placed in the United States mail in a properly addressed, postpaid envelope, or if not so posted, on the date of delivery. The insurer shall not be obligated to pay any attorney's fees if the insurer pays the claim within the time prescribed by this subsection.

(e) The applicable statute of limitation for an action under this section shall be tolled for a period of 15 business days by the mailing of the notice required by this subsection.

(f) Any insurer making a general business practice of not paying valid claims until receipt of the notice required by this section is engaging in an unfair trade practice under the insurance code.

(12) CIVIL ACTION FOR INSURANCE FRAUD.—An insurer shall have a cause of action against any person convicted of, or who, regardless of adjudication of guilt, pleads guilty or nolo contendere to insurance fraud under s. 817.234, patient brokering under s. 817.505, or kickbacks under s. 456.054, associated with a claim for personal injury protection benefits in accordance with s. 627.736. An insurer prevailing in an action brought under this subsection may recover compensatory, consequential, and punitive damages subject to the requirements and limitations of part II of chapter 768, and attorney's fees and costs incurred in litigating a cause of action against any person convicted of, or who, regardless of adjudication of guilt, pleads guilty or nolo contendere to insurance fraud under s. 817.234, patient brokering under s. 817.505, or kickbacks under s. 456.054, associated with a claim for personal injury protection benefits in accordance with s. 627.736.

Section 7. Effective October 1, 2001, subsections (8) and (9) of section 817.234, Florida Statutes, are amended to read:

817.234 False and fraudulent insurance claims.—

(8) It is unlawful for any person, in his or her individual capacity or in his or her capacity as a public or private employee, or for any firm, corporation, partnership, or association, to solicit *or cause to be solicited* any business *from a person involved in a motor vehicle accident by any means of communication other than advertising directed to the public* ~~in or about city receiving hospitals, city and county receiving hospitals, county hospitals, justice courts, or municipal courts; in any public institution; in any public place; upon any public street or highway; in or about private hospitals, sanitariums, or any private institution; or upon private property of any character whatsoever~~ for the purpose of making motor vehicle tort claims or claims for personal injury protection benefits required by s. 627.736. *Charges for any services rendered by a health care provider or attorney who violates this subsection in regard to the person for whom such services were rendered are noncompensable and unenforceable as a matter of law.* Any person who violates the provisions of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) It is unlawful for any attorney to solicit any business relating to the representation of *a person involved* ~~persons injured~~ in a motor vehicle accident for the purpose of filing a motor vehicle tort claim or a claim for personal injury protection benefits required by s. 627.736. The solicitation by advertising of any business by an attorney relating to the representation of a person injured in a specific motor vehicle accident is prohibited by this section. Any attorney who violates the provisions of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Whenever any circuit or special grievance committee acting under the jurisdiction of the Supreme Court finds probable cause to believe that an attorney is guilty of a violation of this section, such committee shall forward to the appropriate state attorney a copy of the finding of probable cause and the report being filed in the matter. This section shall not be interpreted to prohibit advertising by attorneys which does not entail a solicitation as described in this subsection and which is permitted by the rules regulating The Florida Bar as promulgated by the Florida Supreme Court.

Section 8. Effective October 1, 2001, paragraphs (c), (e), and (g) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(c) LEVEL 3
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in marked patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

Florida Statute	Felony Degree	Description
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
796.05(1)	3rd	Live on earnings of a prostitute.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
817.234(8) & (9)	*3rd*	*Unlawful solicitation of persons involved in motor vehicle accidents.*
817.234(11)(a)	*3rd*	*Insurance fraud; property value less than $20,000.*
817.505(4)	*3rd*	*Patient brokering.*
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 200 feet of university or public park.
893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 200 feet of public housing facility.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.47 (1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.3141	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
		(e) LEVEL 5
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
790.01(2)	3rd	Carrying a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163	2nd	False report of deadly explosive.
790.165(2)	3rd	Manufacture, sell, possess, or deliver hoax bomb.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.

Florida Statute	Felony Degree	Description
790.23	2nd	Felons in possession of firearms or electronic weapons or devices.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
800.04(7)(c)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
817.234(11)(b)	*2nd*	*Insurance fraud; property value $20,000 or more but less than $100,000.*
825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
843.01	3rd	Resist officer with violence to person; resist arrest with violence.
874.05(2)	2nd	Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility or school.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 200 feet of university or public park.
893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 200 feet of public housing facility.
893.13(4)(b)	2nd	Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920(2)	3rd	Medicaid provider fraud.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(9)	3rd	Practicing medical physics without a license.
484.053	3rd	Dispensing hearing aids without a license.

Florida Statute	Felony Degree	Description
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by money transmitter.
560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd	Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code inspector.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
812.014(2)(a)	1st	Property stolen, valued at $100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.234(11)(c)	*1st*	*Insurance fraud; property value $100,000 or more.*
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $20,000 or more, but less than $100,000.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
872.06	2nd	Abuse of a dead human body.

Florida Statute	Felony Degree	Description
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility or school.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less then 5 kilograms.
893.135 (1)(j)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.

Section 9. Subsection (1) of section 324.021, Florida Statutes, is amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(1) MOTOR VEHICLE.—Every self-propelled vehicle which is designed and required to be licensed for use upon a highway, including trailers and semitrailers designed for use with such vehicles, except traction engines, road rollers, farm tractors, power shovels, and well drillers, and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails, but not including any bicycle or moped. However, the term "motor vehicle" shall not include any motor vehicle as defined in *s. 627.732(3)* ~~s. 627.732(1)~~ when the owner of such vehicle has complied with the requirements of ss. 627.730-627.7405, inclusive, unless the provisions of s. 324.051 apply; and, in such case, the applicable proof of insurance provisions of s. 320.02 apply.

Section 10. *The sum of $100,000 is appropriated from the registration fees collected from clinics pursuant to section 456.0375, Florida Statutes, to the Department of Health and one-half of one full-time-equivalent position is authorized for the purposes of regulating medical clinics pursuant to section 456.0375, Florida Statutes. These funds shall be deposited into the Medical Quality Assurance Trust Fund.*

Section 11. (1) Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

(2) Paragraph (1)(a), (4)(c), (7)(a), and subparagraph (4)(b)1. of s. 627.736, Florida Statutes, as amended by section 5 of this act, and the deletion of paragraph (4)(f) and redesignation of paragraph (4)(g) as (4)(f) by section 5 of this act shall apply to policies issued new or renewed on or after October 1, 2001.

(3) Paragraphs (5)(b) and (c) and subsection (6) of section 627.736, Florida Statutes, as amended by this act and subsection (11) of section 627.736, Florida Statutes, shall apply to treatment and services occurring on or after October 1, 2001, except that subsection (11) of section 627.736, Florida Statutes, shall apply to actions filed on or after the effective date of this act with regard to a claim or amended claim or judgment for interest only which was not paid or was incorrectly calculated.

And the title is amended as follows:

On page 1,
remove from the title of the bill: The entire title

and insert in lieu thereof: A bill to be entitled An act relating to insurance; providing legislative findings; amending s. 119.10, F.S.; providing a criminal penalty for use of certain report information for commercial solicitation; creating s. 456.0375, F.S.; defining the term "clinic"; imposing registration requirements for certain clinics; providing for medical directors or clinical directors; providing duties and responsibilities of medical directors or clinical directors; authorizing the Department of Health to adopt rules for certain purposes; providing for enforcement; providing penalties; amending s. 626.989, F.S.; clarifying immunity from civil actions provisions; amending s. 627.732, F.S.; defining the terms "broker" and "medically necessary"; amending s. 627.736, F.S.; revising provisions relating to personal injury protection benefits; revising provisions relating to interest on overdue claims; revising provisions for charges and payments for certain treatments; removing provisions specifying the use of medical payments insurance; making certain charges by a broker noncompensable; providing for a demand letter; providing demand letter requirements; providing for civil actions against certain persons; amending s. 817.234, F.S.; prohibiting solicitation of specific persons involved in motor vehicle crashes; specifying certain charges as unlawful and unenforceable; amending s. 921.0022, F.S.; ranking certain criminal offenses specified in that section; amending s. 324.021, F.S.; correcting a cross-reference; providing an appropriation; providing effective dates.

Rep. Waters moved the adoption of the amendment.

THE SPEAKER IN THE CHAIR

On motion by Rep. Melvin, under Rule 12.2(c), the following late-filed amendment to the amendment was considered.

Representative(s) Harper and Melvin offered the following:

(Amendment Bar Code: 184091)

Amendment 1 to Amendment 1—On page 8, line 14 through page 9, line 13,
remove from the amendment: all of said lines

and insert in lieu thereof:

(1) "Broker" means any person not possessing a license or reporting under chapter 395, chapter 400, chapter 458, chapter 459, chapter 460, chapter 461, or chapter 641 who charges or receives compensation for any use of medical equipment. Broker shall be defined as: a person or entity which pays or receives a rebate or kickback in cash or in kind in exchange for the referral of a patient; a lessor, sublessor or other contractual arrangements for equipment where the payment for equipment varies based upon reimbursement by patient or insurance company is considered to be not at risk and is therefore a broker. A lessor, sublessor or other contractual arrangement for equipment where payments are made under such arrangements regardless of reimbursement is considered to be at risk and is therefore not a broker. For purposes of this section, such owner or lessee may be an individual, a corporation, a partnership, or any other entity. The term "broker" does not include a hospital or physician management company whose medical equipment is ancillary to the practices managed, a debt collection agency, or a magnetic resonance imaging (MRI) provider or magnetic resonance imaging (MRI) leasing company that has entered into a preferred provider agreement (PPO) through good faith bargaining and mutally acceptable terms and conditions to reduce costs and prevent fraud, nor does the term include a management company that has contracted to provide general management services for a licensed physician or health care facility and whose compensation is not materially affected by the usage or frequency of usage of medical equipment or an entity that is 100-percent owned by one or more hospitals or physicians.

Rep. Melvin moved the adoption of the amendment to the amendment, which failed of adoption. The vote was:

Session Vote Sequence: 210

Yeas—35

Argenziano	Fiorentino	Holloway	Russell
Arza	Flanagan	Joyner	Seiler
Attkisson	Garcia	Kottkamp	Slosberg
Barreiro	Gelber	Lee	Smith
Bennett	Gottlieb	Machek	Sobel
Betancourt	Greenstein	Mahon	Wallace
Bucher	Harper	Melvin	Weissman
Bullard	Henriquez	Richardson	Wishner
Diaz de la Portilla	Heyman	Ritter	

Nays—68

The Chair	Bowen	Fields	Justice
Alexander	Brown	Gannon	Kallinger
Allen	Brummer	Gardiner	Kendrick
Andrews	Byrd	Gibson	Kilmer
Atwater	Cantens	Goodlette	Kosmas
Ausley	Carassas	Green	Kravitz
Baker	Clarke	Haridopolos	Kyle
Baxley	Davis	Harrell	Lerner
Bean	Detert	Harrington	Littlefield
Bense	Diaz-Balart	Hart	Mack
Berfield	Dockery	Jennings	Mayfield
Bilirakis	Farkas	Jordan	McGriff
Miller	Pickens	Ryan	Stansel
Murman	Rich	Simmons	Trovillion
Needelman	Romeo	Siplin	Waters
Negron	Ross	Sorensen	Wiles
Paul	Rubio	Spratt	Wilson

Due to a voting system malfunction the vote on Amendment 1 to Amendment 1 to CS/HB 1819 did not reflect that the Speaker was in the Chair and a vote for Speaker Feeney was not recorded. Speaker Feeney's vote was recorded as a Nay vote. Representative Ball's vote was recorded as a Nay vote.

Representative(s) Waters offered the following:

(Amendment Bar Code: 542949)

Amendment 2 to Amendment 1—On page 17, line 15 through page 18, line 20
remove from the amendment: all of said lines

and insert in lieu thereof:

3. Payments by an insurer for medically necessary nerve conduction testing when done in conjunction with a needle electromyography procedure and both are performed and billed solely by a physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461 who is also certified by the American Board of Electrodiagnostic Medicine or by a board recognized by the American Board of Medical Specialties or who holds diplomate status with the American Chiropractic Neurology Board or its predecessors shall not exceed 200 percent of the payment amount under Medicare Part B for year 2001, adjusted annually by an additional amount equal to the medical Consumer Price Index for Florida.

4. Payments by an insurer for medically necessary nerve conduction testing that does not meet the requirements of subparagraph 3. shall not exceed the applicable fee schedule or other payment methodology established pursuant to s. 440.13.

5. Effective upon this act becoming a law and before November 1, 2001, payments for magnetic resonance imaging services shall not exceed 200 percent of the payment amount under Medicare Part B for year 2001. Beginning November 1, 2001, payments for magnetic resonance imaging services shall not exceed 150 percent of the payment amount under Medicare Part B for year 2001, adjusted annually by an additional amount equal to the medical Consumer Price Index for Florida, except that payments for magnetic resonance imaging services provided in facilities accredited by the American College of Radiology or the Joint Commission on Accreditation of Healthcare Organizations shall not exceed 200 percent of the payment amount under Medicare Part B for year 2001, adjusted annually by an additional amount equal to the medical Consumer Price Index for Florida. This paragraph does not apply to charges for magnetic resonance imaging services and nerve conduction testing for inpatients and emergency services and care as defined in chapter 395 rendered by facilities licensed under chapter 395.

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

Motion

Rep. Alexander moved the previous question on the amendments and the bill, which was agreed to.

The question recurred on the adoption of **Amendment 2 to Amendment 1**, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

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

Conference Committee Appointments

The Speaker appointed the following Members as managers on the part of the House on CS for SB 1118 to serve with Rep. Byrd, Chair: Reps. Rubio, Goodlette, and Smith.

Motion to Adjourn

Rep. Byrd moved that the House adjourn for the purpose of holding committee and council meetings and conducting other House business, to reconvene at 1:30 p.m., Monday, April 30. The motion was agreed to.

Recorded Votes

Rep. Crow:

Yeas—CS/CS/HB 681

Nays—motion to read CS/HB 83 the second time in full; motion to read CS/CS/HB 1533 the second time in full

Rep. Davis:

Yeas—HB 601; SB 1166; HB 1419; HB 1565; Amendment 1 to CS/HBs 1617 & 1487

Nays—Amendment 3 to Amendment 1 to CS/HBs 1617 & 1487

Rep. Gibson:

Nays—motion to read CS/CS/HB 1533 the second time in full after reconsideration

Rep. Mahon:

Yeas—Amendment 3 to Amendment 1 to CS/HBs 1617 & 1487; Amendment 1, as amended, to CS/HBs 1617 & 1487

Rep. Wiles:

Change from Yeas to Nays—SB 854

Prime Sponsors
HB 159—Benson
HB 621—Machek
HB 759—Gelber
HB 873—Bucher
CS/CS/HB 1193—Brutus
HB 1747—Pickens

Withdrawals as Prime Sponsor
HB 621—Fiorentino

Cosponsors
CS/HB 79—Ausley
CS/CS/HB 247—Heyman
CS/CS/HB 269—Brutus
CS/HB 427—Crow, Machek
HB 449—Negron
CS/HB 687—Lynn, Murman
HB 759—Detert, Heyman, Kyle, Needelman
HB 1055—Atwater, Barreiro, Heyman, Justice, Lerner, Machek
HB 1077—Bilirakis
HB 1089—Goodlette, Needelman
CS/HB 1375—Trovillion
HB 1799—Clarke
CS/HB 1889—Kilmer

Introduction and Reference

HR 9073—Adopted April 25

By Representative Brutus—

HR 9075—A resolution recognizing the Miami Edison Senior High School girls' basketball team for winning the State Class 6A Championship on March 3, 2001.

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Murman—

HR 9077—A resolution designating August 19-25, 2001, "Community Health Center Week."

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Kendrick—

HR 9079—A resolution designating April 2001 "Florida Organ Donation Awareness Month."

First reading by publication (Art. III, s. 7, Florida Constitution).

By Representative Hogan—

HR 9081—A resolution proclaiming November 1-4, 2001, as Ham Jam Week in Clay County.

First reading by publication (Art. III, s. 7, Florida Constitution).

Enrolling Reports

CS/HB 1 and HB 1003 have been enrolled, signed by the required constitutional officers, and presented to the Governor on April 27, 2001.

John B. Phelps, Clerk

Excused

Reps. Crow, Peterman

Conference Committee Managers Excused

The following Conference Committee Managers were excused from time to time:

SBs 2000 and 2002 (appropriations): Rep. Lacasa, Chair; At Large—Reps. Fasano, Greenstein, Murman, Wallace, Wilson, and Sobel (alternate); Transportation & Economic Development Appropriations—Rep. Johnson, Chair, Reps. Bense, Hart, Jennings, Ritter, Rubio, Berfield (alternate), and Hogan (alternate); Health & Human Services Appropriations—Rep. Maygarden, Chair, Reps. Brummer, Farkas, Green, Rich, Slosberg, Benson (alternate), Brutus (alternate), and Garcia (alternate); Education Appropriations—Rep. Lynn, Chair, Reps. Alexander, Flanagan, Justice, Melvin, Stansel, Arza (alternate), Bucher (alternate), and Mealor (alternate); Criminal Justice Appropriations—Rep. Ball, Chair, Reps. Barreiro, Bilirakis, Mahon, Meadows, Seiler, and Bowen (alternate); General Government Appropriations—Rep. Dockery, Chair, Reps. Holloway, Kilmer, Miller, Siplin, Spratt, and Brown (alternate).

Adjourned

Pursuant to the motion previously agreed to, the House adjourned at 8:38 p.m., to reconvene at 1:30 p.m., Monday, April 30.

The Journal OF THE House of Representatives

Number 20 **Monday, April 30, 2001**

The House was called to order by the Speaker at 1:30 p.m.

Prayer

The following prayer was offered by the Honorable Jerry Louis Maygarden:

Most gracious God, creator of all things both great and small, we pause in the midst of another glorious spring day to offer a prayer of thanksgiving. Thank You for our communities, our homes, thank You for this great state, and thank You for this wonderful country. Most of all, Father, we're grateful for our people and we're grateful for their representation here today. Bless us with humility in victory. Grant us peace in our darkest hours. Serve as a lamp to our feet and guide and direct us in the path of Thy ways and we'll give You all the praise. We pray these things in total adoration of the one true living God. Amen.

The following Members were recorded present:

Session Vote Sequence: 211

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

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

A quorum was present.

Pledge

The Members, led by Katelyn M. Baird of Palatka, Robert Justin Berry of Clermont, Amber Lynn Brown of Tallahassee, Jessica Harmsen of Tallahassee, and Taylor Johnson-Rule of Tallahassee, pledged allegiance to the Flag. Katelyn M. Baird served at the invitation of Rep. Pickens. Robert Justin Berry served at the invitation of Rep. Baker. Amber Lynn Brown served at the invitation of Speaker Feeney. Jessica Harmsen served at the invitation of Rep. Justice. Taylor Johnson-Rule served at the invitation of Rep. Barreiro.

House Physician

The Speaker introduced Dr. Sankar Swaminathan of Gainesville, who served in the Clinic today upon invitation of Rep. Kendrick.

Correction of the *Journal*

The *Journal* of April 27 was corrected and approved as follows: On page 1303, column 1, line 5 from the top, delete "which was adopted" and insert in lieu thereof: which failed of adoption

On page 1389, column 2, line 22 from the top, insert: Representative Ball's vote was recorded as a Nay vote.

On page 1390, column 1, line 8 from the top, delete "HB 1819" and insert in lieu thereof: CS for SB 1118

The *Journal* of April 26 was further corrected as follows: On page 965, column 1, line 15 from the top, delete "By the Committees on Fiscal Policy & Resources; Elder & Long-Term Care" and insert in lieu thereof: By the Fiscal Responsibility Council; Committee on Elder & Long-Term Care

Messages from the Senate

On motion by Rep. Benson, the rules were waived by the required two-thirds vote and—

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed SB 1400, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By Senator Posey—

SB 1400—A bill to be entitled An act relating to swimming pool/spa servicing contractors; amending s. 489.111, F.S.; providing eligibility requirements to take the licensure examination for the swimming pool/spa servicing contractor's license; providing an effective date.

—was taken up instanter and read the first time by title. On motion by Rep. Benson, the rules were waived and the bill was read the second time by title.

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

On motion by Rep. Barreiro, the rules were waived by the required two-thirds vote and—

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for CS for CS for SB's 1526 & 314 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committees on Finance and Taxation, Commerce and Economic Opportunities, Banking and Insurance and Senator Constantine and others—

CS for CS for CS for SB's 1526 & 314—A bill to be entitled An act relating to the Money Transmitter's Code; amending s. 560.103, F.S.; revising definitions; amending s. 560.111, F.S.; providing penalties for specified violations of the deferred presentment act; amending s. 560.114, F.S.; providing additional grounds for disciplinary action; providing for continuation of certain administrative proceedings under certain circumstances; amending s. 560.118, F.S.; eliminating the authority to assess examination fees; amending s. 560.119, F.S.; revising the deposit of fees and assessments; amending s. 560.204, F.S.; clarifying exemption from registration fees under part III of ch. 560, F.S.; amending s. 560.205, F.S.; adding a fee for authorized vendor or branch locations; amending s. 560.206, F.S.; amending the registration period; amending s. 560.207, F.S.; conforming and clarifying the fee for late renewals; amending the renewal application fee; amending s. 560.208, F.S.; requiring notification of vendor or branch locations; requiring a nonrefundable fee and financial statement; amending s. 560.307, F.S.; applying the application fee to check cashers and foreign currency exchanges and adding a fee for authorized vendors or branch locations; requiring notification of vendor or branch locations; amending s. 560.308, F.S.; increasing the registration and renewal fee for each registrant; clarifying the fee to be charged for late renewal; creating part IV, ch. 560, F.S., consisting of ss. 560.401, 560.402, 560.403, 560.404, 560.405, 560.406, 560.407, and 560.408, F.S.; providing a short title; providing definitions; providing registration requirements for deferred presentment transactions; providing for filing fees; providing limitations; specifying requirements and limitations for engaging in deferred presentment transactions; providing prohibitions; providing for fees; providing limitations; requiring certain notice; specifying criteria and requirements for deposit and redemption of a drawer's check; providing procedures for recovering damages for worthless checks; requiring maintenance of records for a time certain; providing legislative intent; requiring the Comptroller to submit a report to the President of the Senate and the Speaker of the House of Representatives concerning the effectiveness of this act; providing an effective date.

—was taken up instanter and read the first time by title. On motion by Rep. Barreiro, the rules were waived and the bill was read the second time by title.

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

On motion by Rep. Haridopolos, the rules were waived by the required two-thirds vote and—

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 924, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Health, Aging and Long-Term Care and Senator Webster and others—

CS for SB 924—A bill to be entitled An act relating to health care providers; amending ss. 458.331, 459.015, F.S.; providing an additional ground for discipline of persons licensed under ch. 458, F.S., or ch. 459, F.S.; providing an effective date.

—was taken up instanter and read the first time by title. On motion by Rep. Haridopolos, the rules were waived and the bill was read the second time by title.

Representative(s) Needelman offered the following:

(Amendment Bar Code: 335817)

Amendment 1 (with title amendment)—Delete everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraphs (nn) and (oo) are added to subsection (1) of section 458.331, Florida Statutes, to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(nn) Delegating postoperative responsibilities to a person not licensed as a physician under this chapter or chapter 459, except where delegation to another licensed health care practitioner is deemed medically appropriate by the delegating physician and the other licensed health care practitioner is required by law to conform to the same level of care provided by medical practitioners in accordance with the same or similar community standards. Delegation of ocular postoperative responsibility shall be subject to the written informed consent of the patient, and the postoperative care shall be performed pursuant to a co-management protocol which requires regular reporting to the surgeon and immediate consultation with a surgeon when the care required by the patient exceeds the care which the other licensed health care practitioner is authorized or trained to perform.

(oo) Failing to report to the department, as required by s. 456.072, any person licensed under this chapter, chapter 459, or the chapter regulating the alleged violator, who fails to provide appropriate postoperative care.

Section 2. Paragraphs (pp) and (qq) are added to subsection (1) of section 459.015, Florida Statutes, to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(pp) Delegating postoperative responsibilities to a person not licensed as a physician under this chapter or chapter 459, except where delegation to another licensed health care practitioner is deemed medically appropriate by the delegating physician and the other licensed health care practitioner is required by law to conform to the same level of care provided by medical practitioners in accordance with the same or similar community standards. Delegation of ocular postoperative responsibility shall be subject to the written informed consent of the patient, and the postoperative care shall be performed pursuant to a co-management protocol which requires regular reporting to the surgeon and immediate consultation with a surgeon when the care required by the patient exceeds

the care which the other licensed health care practitioner is authorized or trained to perform.

(qq) Failing to report to the department, as required by s. 456.072, any person licensed under this chapter, chapter 458, or the chapter regulating the alleged violator, who fails to provide appropriate postoperative care.

Section 3. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 4, strike the words "an additional ground"

and insert in lieu thereof: additional grounds

Rep. Needelman moved the adoption of the amendment.

Representative(s) Fasano, Haridopolos and Ritter offered the following:

(Amendment Bar Code: 954763)

Amendment 1 to Amendment 1—
remove from the amendment: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (nn) is added to subsection (1) of section 458.331, Florida Statutes, to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(nn) Except as otherwise provided herein, delegating ocular post-operative responsibilities to a person other than an ophthalmologist licensed as a physician under this chapter or chapter 459. Nothing herein shall be construed to prohibit an ophthalmologist performing cataract surgery from delegating ocular post-operative responsibilities relating to that cataract surgery to a board certified optometrist licensed under chapter 463 provided that the delegation occurs no sooner than 14 days following cataract surgery, the board certified optometrist is supervised by the operating surgeon or an equivalently trained ophthalmologist, and the operating surgeon remains responsible for the management of the patient's post-operative care.

Section 2. Paragraph (pp) is added to subsection (1) of section 459.015, Florida Statutes, to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(pp) Except as otherwise provided herein, delegating ocular post-operative responsibilities to a person other than an ophthalmologist licensed as a physician under this chapter or chapter 458. Nothing herein shall be construed to prohibit an ophthalmologist performing cataract surgery from delegating ocular post-operative responsibilities relating to that cataract surgery to a board certified optometrist licensed under chapter 463 provided that the delegation occurs no sooner than 14 days following cataract surgery, the board certified optometrist is supervised by the operating surgeon or an equivalently trained ophthalmologist, and the operating surgeon remains responsible for the management of the patient's post-operative care.

Section 3. This act shall take effect July 1, 2001.

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

The question recurred on the adoption of **Amendment 1**, as amended.

Rep. Needelman moved to withdraw **Amendment 1**. Subsequently, Rep. Ritter objected to the withdrawal of **Amendment 1**.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted. The vote was:

Session Vote Sequence: 212

Yeas—57

The Chair	Byrd	Holloway	Prieguez
Andrews	Cantens	Jennings	Ritter
Argenziano	Diaz de la Portilla	Jordan	Romeo
Arza	Diaz-Balart	Joyner	Rubio
Attkisson	Fasano	Justice	Seiler
Atwater	Fiorentino	Kilmer	Slosberg
Ball	Flanagan	Kravitz	Smith
Barreiro	Garcia	Kyle	Sobel
Baxley	Gardiner	Littlefield	Sorensen
Bean	Gelber	Mack	Trovillion
Bennett	Gibson	Mahon	Waters
Bense	Greenstein	Maygarden	Wishner
Benson	Haridopolos	Miller	
Berfield	Harrell	Negron	
Bilirakis	Henriquez	Paul	

Nays—56

Alexander	Cusack	Heyman	Needelman
Allen	Davis	Hogan	Peterman
Ausley	Detert	Johnson	Pickens
Baker	Dockery	Kallinger	Rich
Bendross-Mindingall	Farkas	Kendrick	Richardson
Betancourt	Fields	Kosmas	Ross
Bowen	Frankel	Kottkamp	Ryan
Brown	Gannon	Lerner	Simmons
Brummer	Goodlette	Machek	Siplin
Brutus	Gottlieb	Mayfield	Spratt
Bucher	Green	McGriff	Stansel
Bullard	Harper	Meadows	Wallace
Carassas	Harrington	Mealor	Weissman
Crow	Hart	Melvin	Wiles

Votes after roll call:
Nays—Lee
Nays to Yeas—Brutus, Crow

Representative(s) Farkas, Pickens, Needelman, Kottkamp, Bowen, Allen, Brown, and Ross offered the following:

(Amendment Bar Code: 481301)

Amendment 2—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (nn) is added to subsection (1) of section 458.331, Florida Statutes, is amended to

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(nn) Except as otherwise provided herein, delegating ocular post-operative responsibilities to a person other than an ophthalmologist licensed as a physician under this chapter or chapter 459 or an ophthalmologist with an active, unencumbered license in another state in which the patient is a resident. Nothing herein shall be construed to prohibit an ophthalmologist performing ocular surgery from delegating ocular post-operative responsibilities relating to that ocular surgery to a board certified optometrist licensed under chapter 463; provided, that the delegation occurs no sooner than 7 days following the ocular surgery, the board certified optometrist is under general supervision by the operating surgeon or an equivalently trained ophthalmologist, and the operating surgeon remains responsible for the management of the patient's postoperative care. General supervision means regular reporting to the

surgeon, and immediate availability of an ocular surgeon for consultation or to direct treatment.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), including conduct that would constitute a substantial violation of subsection (1) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify, or certification with restrictions, to the department an application for licensure, certification, or registration.

(b) Revocation or suspension of a license.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.

(e) Issuance of a reprimand.

(f) Placement of the physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another physician.

(g) Issuance of a letter of concern.

(h) Corrective action.

(i) Refund of fees billed to and collected from the patient.

(j) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the physician. All costs associated with compliance with orders issued under this subsection are the obligation of the physician.

Section 2. Paragraph (pp) is added to subsection (1) of section 459.015, Florida Statutes, to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(pp) Except as otherwise provided herein, delegating ocular post-operative responsibilities to a person other than an ophthalmologist licensed as a physician under this chapter or chapter 459 or an ophthalmologist with an active, unencumbered license in another state in which the patient is a resident. Nothing herein shall be construed to prohibit an ophthalmologist performing ocular surgery from delegating ocular post-operative responsibilities relating to that ocular surgery to a board certified optometrist licensed under chapter 463; provided, that the delegation occurs no sooner than 7 days following the ocular surgery, the board certified optometrist is under general supervision by the operating surgeon or an equivalently trained ophthalmologist, and the operating surgeon remains responsible for the management of the patient's postoperative care. General supervision means regular reporting to the surgeon, and immediate availability of an ocular surgeon for consultation or to direct treatment.

(2) When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Refusal to certify, or certify with restrictions, to the department an application for certification, licensure, renewal, or reactivation.

(b) Revocation or suspension of a license or certificate.

(c) Restriction of practice.

(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.

(e) Issuance of a reprimand.

(f) Issuance of a letter of concern.

(g) Placement of the osteopathic physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the osteopathic physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another osteopathic physician.

(h) Corrective action.

(i) Refund of fees billed to and collected from the patient.

(j) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the physician. All costs associated with compliance with orders issued under this subsection are the obligation of the physician.

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

Rep. Farkas moved the adoption of the amendment.

Representative(s) Fasano, Haridopolos, and Ritter offered the following:

(Amendment Bar Code: 110995)

Amendment 1 to Amendment 2—
remove from the amendment everything after the enacting clause:

and insert in lieu thereof:

Section 1. Paragraph (nn) is added to subsection (1) of section 458.331, Florida Statutes, to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(nn) Except as otherwise provided herein, delegating ocular post-operative responsibilities to a person other than an ophthalmologist licensed as a physician under this chapter or chapter 459. Nothing herein shall be construed to prohibit an ophthalmologist performing cataract surgery from delegating ocular post-operative responsibilities relating to that cataract surgery to a board certified optometrist licensed under chapter 463 provided that the delegation occurs no sooner than 14 days following cataract surgery, the board certified optometrist is supervised by the operating surgeon or an equivalently trained ophthalmologist, and the operating surgeon remains responsible for the management of the patient's post-operative care.

Section 2. Paragraph (pp) is added to subsection (1) of section 459.015, Florida Statutes, to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(pp) Except as otherwise provided herein, delegating ocular post-operative responsibilities to a person other than an ophthalmologist licensed as a physician under this chapter or chapter 458. Nothing herein shall be construed to prohibit an ophthalmologist performing cataract surgery from delegating ocular post-operative responsibilities relating to that cataract surgery to a board certified optometrist licensed under

chapter 463 provided that the delegation occurs no sooner than 14 days following cataract surgery, the board certified optometrist is supervised by the operating surgeon or an equivalently trained ophthalmologist, and the operating surgeon remains responsible for the management of the patient's post-operative care.

Section 3. This act shall take effect July 1, 2001.

Rep. Fasano moved the adoption of the amendment to the amendment. Subsequently, **Amendment 1 to Amendment 2** was withdrawn.

The question recurred on the adoption of **Amendment 2**, which was adopted. The vote was:

Session Vote Sequence: 213

Yeas—73

Alexander	Crow	Kallinger	Pickens
Allen	Cusack	Kendrick	Prieguez
Atwater	Davis	Kilmer	Rich
Ausley	Detert	Kosmas	Richardson
Baker	Dockery	Kottkamp	Ross
Ball	Farkas	Lee	Russell
Baxley	Fields	Lerner	Ryan
Bean	Frankel	Littlefield	Simmons
Bendross-Mindingall	Gannon	Machek	Siplin
Berfield	Gardiner	Mayfield	Sorensen
Betancourt	Goodlette	Maygarden	Spratt
Bilirakis	Gottlieb	McGriff	Stansel
Bowen	Green	Meadows	Wallace
Brown	Harper	Mealor	Weissman
Brummer	Harrington	Melvin	Wiles
Brutus	Hart	Miller	Wilson
Bucher	Heyman	Murman	
Carassas	Hogan	Needelman	
Clarke	Justice	Peterman	

Nays—43

The Chair	Cantens	Harrell	Ritter
Andrews	Diaz de la Portilla	Henriquez	Romeo
Argenziano	Diaz-Balart	Holloway	Rubio
Arza	Fasano	Jennings	Seiler
Attkisson	Fiorentino	Johnson	Slosberg
Barreiro	Flanagan	Joyner	Smith
Bennett	Garcia	Kravitz	Sobel
Bense	Gelber	Kyle	Trovillion
Benson	Gibson	Mahon	Waters
Bullard	Greenstein	Negron	Wishner
Byrd	Haridopolos	Paul	

Votes after roll call:
Yeas to Nays—Brutus
Nays to Yeas—Henriquez, Smith

Representative(s) Melvin offered the following:

(Amendment Bar Code: 950775)

Amendment 3 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *Study commission created.*—

(1) The Lieutenant Governor shall chair a commission to study the issues contained in Committee Substitute for Senate Bill 924 relative to ocular post-operative responsibilities.

(2) Membership of the commission shall include two members appointed by the Governor, two members appointed by the President of the Senate, and two members appointed by the Speaker of the House of Representatives.

(3) The Office of the Governor shall provide the staff and monies necessary to carry out the purposes of the commission.

(4) The commission shall submit its findings no later than December 15, 2001 to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

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

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to health care providers; providing for a study commission; providing for membership; providing for a report; providing an effective date.

Rep. Melvin moved the adoption of the amendment, which failed of adoption.

Representative(s) Ryan offered the following:

(Amendment Bar Code: 045333)

Amendment 4—On page 1, line 10
remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (nn) is added to subsection (1) of section 458.331, Florida Statutes, to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(nn) Performing ocular surgery at any site unless the physician has hospital privileges to perform such surgery at a hospital licensed under chapter 395 which is within 25 miles of the location in which the surgery is performed.

Section 2. Paragraph (pp) is added to subsection (1) of section 459.015, Florida Statutes, to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(pp) Performing ocular surgery at any site unless the physician has hospital privileges to perform such surgery at a hospital licensed under chapter 395 which is within 25 miles of the location in which the surgery is performed.

Section 3. This act shall take effect July 1, 2001.

Rep. Ryan moved the adoption of the amendment. Subsequently, **Amendment 4** was withdrawn.

Representative(s) Haridopolos offered the following:

(Amendment Bar Code: 721573)

Amendment 5—On page 1, line 25, and page 2, line 14,
remove from the bill: *28*

and insert in lieu thereof: *14*

Rep. Haridopolos moved the adoption of the amendment.

On motion by Rep. Haridopolos, further consideration of **CS for SB 924**, with pending amendment, was temporarily postponed under Rule 11.10.

On motion by Rep. Green, the rules were waived by the required two-thirds vote and—

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed SB 1200 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By Senator Brown-Waite—

SB 1200—A bill to be entitled An act relating to public records and meetings; providing an exemption from the public records law for certain records relating to internal risk-management programs in nursing homes and assisted living facilities; providing for release of such information under certain circumstances; providing an exemption from the public meetings law for meetings of internal risk-management and quality-assurance committees in nursing homes and assisted living facilities; providing for future legislative review and repeal; providing a statement of public necessity; providing a contingent effective date.

—was taken up instanter and read the first time by title. On motion by Rep. Green, the rules were waived and the bill was read the second time by title.

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

On motion by Rep. Green, the rules were waived by the required two-thirds vote and—

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for CS for CS for SB 1202, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committees on Appropriations, Judiciary, Health, Aging and Long-Term Care and Senators Brown-Waite and Holzendorf—

CS for CS for CS for SB 1202—A bill to be entitled An act relating to long-term care; amending s. 400.0073, F.S.; clarifying duties of the local ombudsman councils with respect to inspections of nursing homes and long-term-care facilities; amending s. 400.021, F.S.; defining the terms "controlling interest" and "voluntary board member" and revising the definition of "resident care plan" for purposes of part II of ch. 400, F.S., relating to the regulation of nursing homes; requiring the Agency for Health Care Administration and the Office of the Attorney General to study the use of electronic monitoring devices in nursing homes; requiring a report; amending s. 400.023, F.S.; providing for election of survival damages, wrongful death damages, or recovery for negligence; providing for attorney's fees for injunctive relief or administrative remedy; providing that ch. 766, F.S., does not apply to actions under this section; providing burden of proof; providing that a violation of a right is not negligence per se; prescribing the duty of care; prescribing a nurse's duty of care; eliminating presuit provisions; eliminating the requirement for presuit mediation; creating s. 400.0233, F.S; providing for presuit notice; prohibiting the filing of suit for a specified time; requiring a response to the notice; tolling the statute of limitations; limiting discovery of presuit investigation documents; limiting liability of presuit investigation participants; authorizing the obtaining of opinions from a nurse or doctor; authorizing the obtaining of unsworn statements; authorizing discovery of relevant documents; prescribing the time for acceptance of settlement offers; requiring mediation; prescribing the time to file suit; creating s. 400.0234, F.S.; requiring the availability of facility records for presuit investigation; specifying the records to be made available; specifying what constitutes evidence of failure to make records available in good faith; specifying the consequences of such failure; creating s. 400.0235, F.S.; providing that the provisions of s. 768.21(8), F.S., do not apply to actions under part II of ch. 400, F.S.; creating s. 400.0236, F.S.; providing a statute of limitations; providing a statute of limitations when there is fraudulent concealment or intentional misrepresentation of fact; providing for application of the statute of limitation to accrued actions; creating s. 400.0237, F.S.; requiring evidence of the basis for punitive damages; prohibiting discovery relating to financial worth; providing for proof of punitive damages; defining the terms "intentional misconduct" and "gross negligence"; prescribing criteria governing employers' liability for punitive damages; providing for the remedial nature of provisions; creating s. 400.0238, F.S.; prescribing limits on the amount of punitive damages; providing for a criminal investigation with a finding of liability for punitive damages under certain circumstances; providing for the admissibility of findings in subsequent civil and criminal actions; providing for the calculation of attorney's fees; amending s. 768.735, F.S.; providing that the section is inapplicable to actions brought under ch. 400, F.S.; amending s. 415.1111, F.S.; limiting actions against nursing homes and assisted living facilities; amending s. 400.0255, F.S.; providing for applicability of provisions relating to transfer or discharge of nursing home residents; amending s. 400.062, F.S.; increasing the bed license fee for nursing home facilities; amending s. 400.071, F.S.; revising license application requirements; requiring certain disclosures; authorizing the Agency for Health Care Administration to issue an inactive license; requiring quality assurance and risk-management plans; amending s. 400.102, F.S.; providing additional grounds for action by the agency against a licensee; amending s. 400.111, F.S.; prohibiting renewal of a license if an applicant has failed to pay certain fines; requiring licensees to disclose financial or ownership interests in certain entities; authorizing placing fines in escrow; amending s. 400.118, F.S.; revising duties of quality-of-care monitors in nursing facilities; amending s. 400.121, F.S.; specifying additional circumstances under which the agency may deny, revoke, or suspend a facility's license or impose a fine; authorizing placing fines in escrow; requiring that the agency revoke or deny a nursing home license under specified circumstances; providing standards for administrative proceedings; providing for the agency to assess the costs of an investigation and prosecution; specifying facts and conditions upon which administrative actions that are challenged must be reviewed; amending s. 400.126, F.S.; requiring an assessment of residents in nursing homes under receivership; providing for alternative care for qualified residents; amending s. 400.141, F.S.; providing additional administrative and management requirements for licensed nursing home facilities; requiring a facility to submit information on staff-to-resident ratios, staff turnover, and staff stability; requiring that certain residents be examined by a licensed physician; providing requirements for dining and hospitality attendants; requiring additional reports to the agency; requiring minimum amounts of liability insurance coverage; requiring daily charting of specified certified nursing assistant services; creating s. 400.1413, F.S.; authorizing nursing homes to impose certain requirements on volunteers; creating s. 400.147, F.S.; requiring each licensed nursing home facility to establish an internal risk management and quality assurance program; providing requirements of the program; requiring the use of incident reports; defining the term "adverse incident"; requiring that the agency be notified of adverse incidents; requiring reporting of liability claims; specifying duties of the internal risk manager; requiring the reporting of sexual abuse; limiting the liability of a risk manager; requiring that the agency report certain conduct to the appropriate regulatory board; requiring that the agency annually report to the Legislature on the internal risk management of nursing homes; creating s. 400.148, F.S.; providing for a pilot project to coordinate resident quality of care through the use of medical personnel to monitor patients; providing purpose; providing for appointment of guardians; creating s. 400.1755, F.S.; prescribing training standards for employees of nursing homes that provide care for persons with Alzheimer's disease or related disorders; prescribing duties of the Department of Elderly Affairs; amending s. 400.19, F.S.; requiring the agency to conduct surveys of certain facilities cited for deficiencies; providing for a survey fine; providing for inspections; amending s. 400.191, F.S.; requiring the agency to publish a Nursing Home Guide Watch List; specifying contents of the watch list; specifying distribution of the watch list; requiring that nursing homes post certain additional information; amending s. 400.211, F.S.; revising employment requirements for nursing assistants; requiring in-service training; amending s. 400.23, F.S.; revising minimum staffing requirements for nursing homes; requiring the documentation and posting of compliance with such standards; requiring correction of deficiencies prior to change in conditional status; providing definitions of deficiencies; adjusting the fines imposed for certain deficiencies; amending s. 400.235, F.S.; revising requirements for the Gold Seal Program; creating s. 400.275, F.S.; providing for training of nursing-home survey teams; amending s.

400.407, F.S.; revising certain licensing requirements; providing for the biennial license fee to be based on number of beds; amending s. 400.414, F.S.; specifying additional circumstances under which the Agency for Health Care Administration may deny, revoke, or suspend a license; providing for issuance of a temporary license; amending s. 400.419, F.S.; increasing the fines imposed for certain violations; creating s. 400.423, F.S.; requiring certain assisted living facilities to establish an internal risk management and quality assurance program; providing requirements of the program; requiring the use of incident reports; defining the term "adverse incident"; requiring that the agency be notified of adverse incidents and of liability claims; requiring reporting of liability claims; specifying duties of the internal risk manager; requiring that the agency report certain conduct to the appropriate regulatory board; requiring that the agency annually report to the Legislature on the internal risk management of assisted living facilities; amending s. 400.426, F.S.; requiring that certain residents be examined by a licensed physician; amending s. 400.429, F.S.; providing for election of survival damages, wrongful death damages, or recovery for negligence; providing for attorney's fees for injunctive relief or administrative remedy; providing that ch. 766, F.S., does not apply to actions under this section; prescribing the burden of proof; providing that a violation of a right is not negligence per se; prescribing the duty of care; prescribing a nurse's duty of care; eliminating presuit provisions; eliminating the requirement for presuit mediation; requiring copies of complaints filed in court to be provided to the agency; creating s. 400.4293, F.S; providing for presuit notice; prohibiting the filing of suit for a specified time; requiring a response to the notice; tolling the statute of limitations; limiting the discovery of presuit investigation documents; limiting liability of presuit investigation participants; authorizing the obtaining of opinions from a nurse or doctor; authorizing the obtaining of unsworn statements; authorizing discovery of relevant documents; prescribing a time for acceptance of settlement offers; requiring mediation; prescribing the time to file suit; creating s. 400.4294, F.S.; requiring the availability of facility records for presuit investigation; specifying the records to be made available; specifying what constitutes evidence of failure to make records available in good faith; specifying the consequences of such failure; creating s. 400.4295, F.S.; providing that the provisions of s. 768.21(8), F.S., do not apply to actions under part III of ch. 400, F.S.; creating s. 400.4296, F.S.; providing a statute of limitations; providing a statute of limitations when there is fraudulent concealment or intentional misrepresentation of fact; providing for application of the statute of limitation to accrued actions; creating s. 400.4297, F.S.; requiring evidence of the basis for punitive damages; prohibiting discovery relating to financial worth; providing for proof of punitive damages; defining the terms "intentional misconduct" and "gross negligence"; prescribing criteria governing employers' liability for punitive damages; providing for the remedial nature of provisions; creating s. 400.4298, F.S.; providing limits on the amount of punitive damages; providing for a criminal investigation with a finding of liability for punitive damages under certain circumstances; providing for the admissibility of findings in subsequent civil and criminal actions; providing for the calculation of attorney's fees; amending s. 400.434, F.S.; authorizing the Agency for Health Care Administration to use information obtained by certain councils; amending s. 400.441, F.S.; clarifying facility inspection requirements; creating s. 400.449, F.S.; prohibiting the alteration or falsification of medical or other records of an assisted living facility; providing penalties; amending s. 409.908, F.S.; prohibiting nursing home reimbursement rate increases associated with changes in ownership; modifying requirements for nursing home cost reporting; requiring a report; amending s. 464.203, F.S.; revising certification requirements for nursing assistants; authorizing employment of certain nursing assistants pending certification; requiring continuing education; amending s. 397.405, F.S., relating to service providers; conforming provisions to changes made by the act; prohibiting the issuance of a certificate of need for additional nursing home beds; providing intent for such prohibition; reenacting s. 400.0255(3), (8), F.S., relating to discharge or transfer of residents; reenacting s. 400.23(5), F.S., relating to rules for standards of care for persons under a specified age residing in nursing home facilities; reenacting s. 400.191(2), (6), F.S., relating to requirements for providing information to consumers; reenacting s. 400.0225, F.S., relating to consumer satisfaction surveys for nursing homes; reenacting s. 400.141(4), (5), F.S., relating to the repackaging of residents' medication and access to other health-related services; reenacting s. 400.235(3)(a), (4), (9), F.S., relating to designation under the nursing home Gold Seal Program; reenacting s. 400.962(1), F.S., relating to the requirement for licensure under pt. IX of ch. 400, F.S.; reenacting s. 10 of ch. 2000-350, Laws of Florida, relating to requirements for a study of the use of automated medication-dispensing machines in nursing facilities and for demonstration projects and a report; amending s. 627.351, F.S.; creating the Senior Care Facility Joint Underwriting Association; defining the term "senior care facility"; requiring that the association operate under a plan approved by the Department of Insurance; requiring that certain insurers participate in the association; providing for a board of governors appointed by the Insurance Commissioner to administer the association; providing for terms of office; providing requirements for the plan of operation of the association; requiring that insureds of the association have a risk-management program; providing procedures for offsetting an underwriting deficit; providing for assessments to offset a deficit; providing that a participating insurer has a cause of action against a nonpaying insurer to collect an assessment; requiring the department to review and approve rate filings of the association; amending s. 400.562, F.S.; revising requirements for standards to be included in rules implementing part V of ch. 400, F.S.; providing for applicability of specified provisions of the act; providing appropriations; providing for severability; providing effective dates.

—was taken up instanter and read the first time by title. On motion by Rep. Green, the rules were waived and the bill was read the second time by title.

On motion by Rep. Green, further consideration of **CS for CS for CS for SB 1202**, was temporarily postponed under Rule 11.10

Reports of Councils and Standing Committees

Report of the Procedural & Redistricting Council

The Honorable Tom Feeney April 30, 2001
Speaker, House of Representatives

Mr. Speaker

Pursuant to Special Rule 01-11, your Procedural & Redistricting Council herewith submits as a Third Reading Calendar for Monday, April 30, 2001. Consideration of the House Bills on the Third Reading Calendar shall include the Senate Companion Measures on the House Calendar.

I. Consideration of the following bill(s):
SB 708—Educ. Employees/Unused Sick Leave
HB 489—High-Speed Rail Study Commission
CS/SB 1610—Funeral & Cemetery Services
HB 1943—Bargaining Agent's Dues/Assessments
CS/CS/HB 1193—Education
HB 1655—Labor & Employment Security Dept.
HB 1845—Criminal Use of Personal ID Info.
HB 1931—Health Insurance Subsidy/Retirees
HB 1981—Tax Administration
HB 1909—Purchasing & Transportation Support
HB 1941—Trust Funds
CS/HB 1633—Student Assessment
HB 1811—Information Technology
SB 814—Entertainment Industry
SB 540—White Collar Crime Victim Protection
HB 1673—Domestic Violence
CS/HB 1803—Workers' Compensation
HB 1695—Public Records/Student Assessments
CS/CS/HB 1533—Education Governance Reorganization
(Special Rule 01-14)

II. Special Order:
CS/SB 778—Lawyer Assistance Programs

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

Respectfully submitted,
Johnnie B. Byrd, Jr.
Chair

On motion by Rep. Byrd, the rules were waived and the above report was adopted.

Motions Relating to Committee or Council References

On motion by Rep. Byrd, agreed to by two-thirds vote, HB 821 was withdrawn from the Procedural & Redistricting Council and placed on the Calendar of the House.

Motion

On motion by Rep. Byrd, the rules were waived and **HB 821** was added to the Special Orders for April 30.

Bills and Joint Resolutions on Third Reading

SB 708—A bill to be entitled An act relating to education; amending s. 231.40, F.S.; limiting the amount of pay certain employees of district school systems may receive for unused sick leave upon termination of employment; providing conditions on the use of sick leave; amending s. 231.481, F.S.; limiting the amount of pay certain employees of district school systems may earn for unused vacation leave upon termination of employment; amending s. 240.343, F.S.; limiting the amount of pay certain employees of community college districts may receive for unused sick leave upon termination of employment; providing conditions on the use of sick leave; providing for payment to the employee's beneficiary under specified conditions; providing an effective date.

—was read the third time by title.

Further consideration of **SB 708** was temporarily postponed under Rule 11.10.

HB 489—A bill to be entitled An act relating to high-speed rail; creating the High-Speed Rail Commission; providing for membership and appointment; providing for staff; providing for duties of the commission; providing for dissolution of the commission upon submission of a required report; directing the Department of Transportation to begin collecting and organizing existing data on high-speed rail systems; providing an appropriation; providing an effective date.

—was read the third time by title.

REPRESENTATIVE BALL IN THE CHAIR

Representative(s) Johnson offered the following:

(Amendment Bar Code: 053915)

Amendment 7—On page 4, line 23,
remove from the bill: *$3 million*

and insert in lieu thereof: *$4.5 million*

Rep. Johnson moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 489. The vote was:

Session Vote Sequence: 214

Yeas—88

The Chair	Bilirakis	Diaz de la Portilla	Gelber
Andrews	Brummer	Diaz-Balart	Gibson
Arza	Bullard	Farkas	Goodlette
Ausley	Byrd	Fasano	Gottlieb
Baker	Cantens	Fields	Green
Barreiro	Carassas	Fiorentino	Harper
Baxley	Clarke	Flanagan	Harrell
Bendross-Mindingall	Crow	Frankel	Harrington
Bense	Cusack	Gannon	Hart
Benson	Davis	Garcia	Henriquez
Berfield	Detert	Gardiner	Heyman
Holloway	Lerner	Needelman	Seiler
Johnson	Littlefield	Paul	Simmons
Jordan	Machek	Peterman	Smith
Joyner	Mack	Pickens	Sorensen
Justice	Mahon	Prieguez	Spratt
Kallinger	Mayfield	Rich	Stansel
Kilmer	Maygarden	Richardson	Wallace
Kosmas	McGriff	Romeo	Waters
Kottkamp	Mealor	Rubio	Wiles
Kravitz	Melvin	Russell	Wilson
Lee	Miller	Ryan	Wishner

Nays—14

Alexander	Bowen	Greenstein	Ross
Argenziano	Brown	Kendrick	Weissman
Attkisson	Bucher	Negron	
Bean	Dockery	Ritter	

Votes after roll call:
Yeas—Atwater, Betancourt, Murman
Nays—Siplin, Sobel
Yeas to Nays—Gottlieb

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

CS for SB 1610—A bill to be entitled An act relating to funeral and cemetery services; amending s. 497.003, F.S.; revising references relating to need determinations; amending s. 497.005, F.S.; providing and revising definitions; amending s. 497.201, F.S.; increasing minimum acreage requirements to establish a cemetery company; eliminating need determinations for new cemeteries; clarifying provisions governing authorized trust companies, banks, and savings and loan associations; revising experience requirements for the general manager of a cemetery company; amending s. 497.237, F.S.; authorizing care and maintenance trust funds to be established with a federal savings and loan association holding trust powers in this state; amending s. 497.245, F.S.; revising provisions governing burial rights; amending s. 497.253, F.S.; revising minimum acreage requirements and references, to conform; revising requirements for sale or disposition of certain cemetery lands, to conform; repealing s. 497.353(12), F.S., relating to prohibiting the use in need determinations of spaces or lots from burial rights reacquired by a cemetery, to conform; amending s. 497.405, F.S.; clarifying provisions relating to authorized trust companies, banks, and savings and loan associations; amending s. 497.417, F.S.; clarifying provisions relating to authorized trust companies, banks, and savings and loan associations; revising the authority of certificateholders offering preneed funeral and burial merchandise and services contracts to revest title to trust assets by posting a bond or using other forms of security or insurance; providing a time limitation on such authority; amending s. 497.425, F.S.; providing a time limitation on the authority to post certain bonds to secure preneed contract assets; amending s. 497.429, F.S.; clarifying provisions relating to authorized trust companies, banks, and savings and loan associations with respect to alternative preneed contracts; amending s. 470.002, F.S.; redefining the term "legally authorized person" for purposes of ch. 470, F.S.; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 215

Yeas—109

The Chair	Ausley	Berfield	Bullard
Alexander	Baker	Betancourt	Byrd
Allen	Barreiro	Bilirakis	Cantens
Andrews	Baxley	Bowen	Clarke
Argenziano	Bean	Brown	Crow
Arza	Bennett	Brummer	Davis
Attkisson	Bense	Brutus	Detert
Atwater	Benson	Bucher	Diaz de la Portilla

Diaz-Balart	Henriquez	Machek	Ross
Dockery	Heyman	Mack	Rubio
Farkas	Hogan	Mahon	Russell
Fasano	Holloway	Mayfield	Ryan
Fields	Jennings	Maygarden	Seiler
Fiorentino	Johnson	McGriff	Simmons
Frankel	Jordan	Meadows	Smith
Gannon	Joyner	Mealor	Sobel
Garcia	Justice	Melvin	Sorensen
Gardiner	Kallinger	Miller	Spratt
Gelber	Kendrick	Murman	Stansel
Gibson	Kilmer	Needelman	Trovillion
Goodlette	Kosmas	Negron	Wallace
Gottlieb	Kottkamp	Paul	Waters
Green	Kravitz	Peterman	Weissman
Greenstein	Kyle	Pickens	Wiles
Harper	Lacasa	Prieguez	Wilson
Harrell	Lee	Rich	
Harrington	Lerner	Richardson	
Hart	Littlefield	Romeo	

Nays—None

Votes after roll call:
Yeas—Flanagan, Haridopolos, Siplin

So the bill passed and was immediately certified to the Senate.

HB 1943—A bill to be entitled An act relating to the deduction and collection of a bargaining agent's dues and uniform assessments; amending s. 447.303, F.S.; eliminating a right of certain bargaining agents to have certain dues and assessments deducted and collected by an employer from certain employees; providing legislative findings and intent; providing that the deduction and collection of certain dues and assessments is a proper subject of collective bargaining; providing requirements and limitations; providing for accounting of funds; providing for enforcement; providing an effective date.

—was read the third time by title.

THE SPEAKER IN THE CHAIR

Rep. Melvin suggested the absence of a quorum. A quorum was present [Session Vote Sequence: 216].

The question recurred on the passage of HB 1943. The vote was:

Session Vote Sequence: 217

Yeas—50

The Chair	Brown	Harrell	Murman
Andrews	Brummer	Harrington	Needelman
Argenziano	Byrd	Hart	Negron
Arza	Diaz de la Portilla	Johnson	Paul
Attkisson	Dockery	Kallinger	Prieguez
Atwater	Fasano	Kilmer	Ross
Baker	Fiorentino	Kottkamp	Rubio
Baxley	Flanagan	Kyle	Russell
Bean	Gardiner	Lacasa	Trovillion
Bennett	Gibson	Littlefield	Wallace
Bense	Goodlette	Mack	Waters
Benson	Green	Maygarden	
Berfield	Haridopolos	Melvin	

Nays—62

Allen	Brutus	Cusack	Gottlieb
Ausley	Bucher	Davis	Greenstein
Ball	Bullard	Detert	Harper
Barreiro	Cantens	Fields	Henriquez
Bendross-Mindingall	Carassas	Frankel	Heyman
Betancourt	Clarke	Gannon	Hogan
Bilirakis	Crow	Gelber	Holloway
Jennings	Machek	Richardson	Sobel
Jordan	Mahon	Ritter	Sorensen
Joyner	Mayfield	Romeo	Stansel
Justice	McGriff	Ryan	Weissman
Kendrick	Meadows	Seiler	Wiles
Kosmas	Miller	Simmons	Wilson
Kravitz	Peterman	Siplin	Wishner
Lee	Pickens	Slosberg	
Lerner	Rich	Smith	

Votes after roll call:
Yeas—Bowen, Farkas
Nays to Yeas—Ball

So the bill failed to pass.

CS/CS/HB 1193—A bill to be entitled An act relating to education; amending s. 121.091, F.S.; eliminating the requirement that certain instructional personnel make an election to participate in the Deferred Retirement Option Program within 12 months after reaching normal retirement date; amending s. 228.041, F.S.; revising the definition of "other instructional staff" to include adjunct educators; amending s. 230.23, F.S.; authorizing a review by a principal prior to reassigning a teacher; deleting provisions relating to salary supplements provided to teachers selected to teach at certain low-performing schools; amending s. 231.095, F.S.; revising provisions relating to assignment of teaching duties out-of-field; amending s. 231.096, F.S.; requiring assistance in accessing resources for teachers teaching out-of-field; amending s. 231.15, F.S.; deleting provision of part-time certificate for athletic coach; creating an athletic coaching certificate; amending s. 231.17, F.S.; authorizing continued employment under specified circumstances; authorizing the use of an approved alternative certification program by a school district other than the school district that developed the program, upon notification to the department and approval of any modifications; creating s. 231.1726, F.S.; providing for certification of adjunct educators; amending s. 231.262, F.S.; requiring each district school board to develop policies and procedures relating to the reporting of complaints against teachers and administrators; providing criteria for policies and procedures; charging the superintendent of schools with knowledge of such policies and procedures; specifying conditions for penalty against superintendent; authorizing the temporary suspension of a teaching certificateholder pending the completion of proceedings in order to protect the health, safety, and welfare of students; correcting cross references to conform; amending s. 231.36, F.S.; including adjunct educators in provisions relating to contracts with instructional staff; requiring a school board to recognize and accept years of satisfactory performance for purposes of pay; providing an exemption; amending s. 231.6135, F.S.; exempting regional educational consortia from certain requirements to become eligible for grants to create professional development academies; amending s. 231.625, F.S.; requiring the Department of Education to develop and implement a system for posting teaching vacancies, establish a database of teacher applicants, develop a long-range plan for educator recruitment and retention, identify best practices for retaining high quality teachers, and develop a plan in consultation with Workforce Florida, Inc., and the Agency for Workforce Innovation for teacher recruitment and retention; deleting requirements that the department develop standardized resumes for teacher applicant data and review and recommend to the Legislature and school districts incentives for attracting teachers to Florida; amending s. 231.700, F.S.; revising the Florida Mentor Teacher School Pilot Program to conform terminology; clarifying requirements for mentor teachers; amending s. 236.08106, F.S.; clarifying requirements relating to the amount of required mentoring or related services for receipt of an Excellent Teaching Program bonus; amending s. 231.261, F.S.; correcting a cross reference; amending ss. 230.2305, 231.045, 231.1725, 231.471, and 232.435, F.S., relating to standards for staff of prekindergarten early intervention programs, periodic criminal history record checks, and employment of specified teachers, part-time teachers, and athletic trainers; revising provisions to include adjunct educators; amending s. 240.529, F.S.; establishing teacher education pilot programs for high-achieving students; providing an effective date.

—was read the third time by title.

Representative(s) Melvin offered the following:

(Amendment Bar Code: 193789)

Amendment 4—On page 23, line 1 after *228.0857*, of the bill

insert: *which serve rural areas of critical economic concern*

Rep. Melvin moved the adoption of the amendment, which was adopted by the required two-thirds vote.

On motion by Rep. Negron, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Negron offered the following:

(Amendment Bar Code: 054325)

Amendment 5 (with title amendment)—On page 3, line 29, of the bill

insert:

Section 1. Paragraph (k) of subsection (1) of section 236.081, Florida Statutes, is amended to read:

236.081 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(k) Calculation of additional full-time equivalent membership based on international baccalaureate examination scores of students.—A value of 0.24 full-time equivalent student membership shall be calculated for each student enrolled in an international baccalaureate course who receives a score of 4 or higher on a subject examination. A value of 0.3 full-time equivalent student membership shall be calculated for each student who receives an international baccalaureate diploma. Such value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. During the 1997-1998, 1998-1999, and 1999-2000 school years of the pilot program authorized in s. 240.116, students enrolled in the Advanced International Certificate of Education Program shall generate full-time equivalent student membership in a manner that is equitable to the manner in which students enrolled in the International Baccalaureate Program generate full-time equivalent student membership. During 1997-1998, a maximum of 40 students in each participating school district is authorized to generate full-time equivalent student membership in the pilot program, and in 1998-1999 and 1999-2000 a maximum of 80 students per year in each participating school district is authorized to generate full-time equivalent student membership in the pilot program. *The school district shall distribute to each classroom teacher who provided international baccalaureate instruction:*

1. A bonus in the amount of $50 for each student taught by the International Baccalaureate teacher in each international baccalaureate course who receives a score of 4 or higher on the international baccalaureate examination.

2. An additional bonus of $500 to each International Baccalaureate teacher in a school designated performance grade category "D" or "F" who has at least one student scoring 4 or higher on the international baccalaureate examination, regardless of the number of classes taught or of the number of students scoring a 4 or higher on the international baccalaureate examination.

Bonuses awarded to a teacher according to this paragraph shall not exceed $2,000 in any given school year and shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive.

And the title is amended as follows:

On page 1, line 2,

after the semicolon insert: amending s. 236.081, F.S.; providing for the distribution to classroom teachers who provided international baccalaureate instruction certain bonuses;

Rep. Negron moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/CS/HB 1193. The vote was:

Session Vote Sequence: 218

Yeas—97

The Chair	Davis	Jennings	Negron
Alexander	Detert	Johnson	Peterman
Allen	Diaz de la Portilla	Justice	Pickens
Andrews	Dockery	Kallinger	Prieguez
Argenziano	Farkas	Kendrick	Richardson
Arza	Fasano	Kilmer	Ritter
Attkisson	Fields	Kosmas	Romeo
Atwater	Fiorentino	Kottkamp	Ross
Ausley	Flanagan	Kravitz	Rubio
Baker	Frankel	Kyle	Russell
Ball	Gardiner	Lacasa	Ryan
Barreiro	Gelber	Lee	Seiler
Bean	Gibson	Lerner	Simmons
Bennett	Goodlette	Littlefield	Siplin
Bense	Gottlieb	Mack	Slosberg
Benson	Green	Mahon	Sobel
Berfield	Greenstein	Mayfield	Spratt
Bilirakis	Haridopolos	Maygarden	Stansel
Bowen	Harper	McGriff	Trovillion
Brown	Harrell	Meadows	Wallace
Brutus	Harrington	Mealor	Waters
Bucher	Henriquez	Melvin	Weissman
Bullard	Heyman	Miller	
Byrd	Hogan	Murman	
Crow	Holloway	Needelman	

Nays—1

Baxley

Votes after roll call:
Yeas—Brummer, Cusack, Gannon, Hart, Joyner, Rich, Wiles
Nays to Yeas—Baxley

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 1655—A bill to be entitled An act relating to The Department of Labor and Employment Security; transferring the Division of Workers' Compensation from the Department of Labor and Employment Security to the Department of Insurance; providing exceptions; transferring various functions, powers, duties, personnel, and assets relating to workers' compensation to the Department of Education, the Agency for Health Care Administration, and the Department of Insurance; transferring certain rules to the Agency for Health Care Administration; amending s. 20.13, F.S.; providing for certain employees of the Division to be given hiring priority by the Department of Insurance; providing pay and employment guidelines for such employees; creating the Division of Workers' Compensation in the Department of Insurance; repealing s. 20.171, F.S., which creates the Department of Labor and Employment Security; amending s. 440.015, F.S.; designating state agencies to administer the workers' compensation law; amending s. 440.02, F.S.; providing definitions; amending ss. 110.025, 440.05, 440.09, 440.10, 440.021, 440.102, 440.103, 440.105, 440.106, 440.107, 440.108, 440.125, 440.13, 440.134, 440.14, 440.15, 440.17, 440.185, 440.191, 440.192, 440.1925, 440.20, 440.207, 440.211, 440.24, 440.25, 440.271, 440.345, 440.35, 440.38, 440.381, 440.385, 440.386, 440.40,

440.41, 440.42, 440.44, 440.49, 440.491, 440.50, 440.51, 440.52, 440.525, 440.572, 440.59, 440.591, 440.593, 443.012, 443.036, 447.02, 447.205, 447.305, 450.12, 450.197, 450.28, 468.529, 626.88, 626.989, 627.0915, 627.914, F.S., to conform to the transfers made by this act; providing for the continuation of contracts and agreements; amending s. 440.38, F.S.; transferring operation of provisions requiring the securing of payment of compensation by employers from the Division of Workers' Compensation of the Department of Labor and Employment Security to the Florida Self-Insurer's Guaranty Association, Incorporated, and the Department of Insurance; revising and clarifying requirements and procedures; providing powers and duties of the association and the departments; providing for allocation or payment of state funds to the association for certain purposes; providing rulemaking authority; amending s. 440.4416, F.S.; revising the composition of the Workers' Compensation Oversight Board; providing for substitution of a successor agency as a party in judicial and administrative proceedings; providing severability; amending s. 624.3161, F.S.; providing for market conduct examinations with respect to workers' compensation; providing legislative intent; providing for a type two transfer of the administration of child labor laws to the Department of Business and Professional Regulation; providing for a type two transfer of certain functions of the Office of the Secretary and the Office of Administrative Services of the Department of Labor and Employment Security relating to labor organizations and migrant and farm labor registration to the Department of Business and Professional Regulation; providing for a type two transfer of other workplace regulation functions to the Department of Business and Professional Regulation; providing appropriations; amending s. 447.02, F.S.; conforming the definition of "department" to the transfer of the regulation of labor organizations to the Department of Business and Professional Regulation; amending s. 450.012, F.S.; conforming the definition of "department" to the transfer of the regulation of child labor to the Department of Business and Professional Regulation; amending s. 450.191, F.S., relating to the duties of the Executive Office of the Governor with respect to migrant labor; conforming provisions to changes made by the act; amending s. 450.28, F.S.; conforming the definition of "department" to the transfer of the regulation of farm labor to the Department of Business and Professional Regulation; creating ss. 633.801, 633.802, 633.803, 633.804, 633.805, 633.806, 633.807, 633.808, 633.810, 633.812, 633.813, 633.814, 633.815, 633.816, 633.817, 633.818, 633.819, 633.820, 633.823, 633.824, and 633.825, F.S.; designating such sections as the Florida Firefighter Occupational Safety and Health Act; providing definitions; providing legislative intent; authorizing the Division of State Fire Marshal to adopt rules related to firefighter safety inspections; requiring the division to conduct a study; requiring firefighter employers to provide safe employment conditions; authorizing the division to adopt rules that prescribe means for preventing accidents in places of firefighter employment and establish standards for construction, repair, and maintenance; requiring the division to inspect places of firefighter employment and to develop safety and health programs for those firefighter employers whose employees have a high frequency or severity of work-related injuries; requiring certain firefighter employers to establish workplace safety committees and to maintain certain records; providing penalties for firefighter employers who violate provisions of the act; providing exemptions; providing for the source of funding of the division; specifying firefighter employee rights and responsibilities; providing penalties for firefighter employers who make false statements to the division or to an insurer; specifying applicability to volunteer firefighters and volunteer fire departments; authorizing the division to adopt rules for assuring safe working conditions for all firefighter employees; amending s. 633.31, F.S.; changing the name and membership of the Firefighters Standards and Training Council; amending ss. 383.3362, 633.30, and 633.32, F.S., to conform; amending s. 633.33, F.S.; revising certain powers of the council; providing effective dates.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 894799)

Technical Amendment 8—On page 2, lines 21-26,
remove from the bill: all of said lines

and insert in lieu thereof: rulemaking authority; repealing s. 440.4416, F.S., relating to the Workers' Compensation Oversight Board; amending s. 624.3161,
and on page 5, line 7, after the semicolon

insert: specifying controlling legislation in the event of a conflict;
and on page 115, lines 6 and 7,
remove from the bill: all of said lines
and on page 149, lines 28 and 29,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 44. *Section 440.4416, Florida Statutes, is repealed.*
and on page 182, line 5,
remove from the bill: *implemention*

and insert in lieu thereof: *implementation*

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

Representative(s) Clarke offered the following:

(Amendment Bar Code: 615565)

Amendment 9—In the title, on page 1, lines 2-3,
remove from the bill: all of said lines

and insert in lieu thereof: An act relating to workplace regulation; transferring the Division

Rep. Clarke moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Clarke offered the following:

(Amendment Bar Code: 182159)

Amendment 10—On page 7, line 1,
remove from the bill: *Three senior*

and insert in lieu thereof: *Four*

Rep. Clarke moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Clarke offered the following:

(Amendment Bar Code: 614291)

Amendment 11—On page 206, lines 20 and 21,
remove from the bill: all of said lines,

and insert in lieu thereof: ~~Division of Workers' Compensation of the~~ department ~~of Labor and Employment Security~~ or implement a safety program *pursuant*

Rep. Clarke moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 1655. The vote was:

Session Vote Sequence: 219

Yeas—73

The Chair	Bennett	Dockery	Hogan
Alexander	Bense	Farkas	Johnson
Allen	Benson	Fasano	Jordan
Andrews	Berfield	Fiorentino	Kallinger
Argenziano	Bilirakis	Flanagan	Kendrick
Arza	Bowen	Garcia	Kilmer
Attkisson	Brown	Gardiner	Kottkamp
Atwater	Brummer	Gibson	Kravitz
Baker	Carassas	Green	Kyle
Ball	Clarke	Haridopolos	Lacasa
Barreiro	Davis	Harrell	Littlefield
Baxley	Detert	Harrington	Mack
Bean	Diaz de la Portilla	Hart	Mahon

Mayfield	Needelman	Rubio	Trovillion
Maygarden	Negron	Russell	Wallace
Mealor	Paul	Simmons	Waters
Melvin	Pickens	Sorensen	
Miller	Prieguez	Spratt	
Murman	Ross	Stansel	

Nays—41

Ausley	Gottlieb	Lerner	Siplin
Bendross-Mindingall	Greenstein	Machek	Slosberg
Betancourt	Harper	McGriff	Smith
Brutus	Henriquez	Meadows	Sobel
Bucher	Heyman	Peterman	Weissman
Bullard	Holloway	Rich	Wiles
Cusack	Jennings	Richardson	Wilson
Fields	Joyner	Ritter	Wishner
Frankel	Justice	Romeo	
Gannon	Kosmas	Ryan	
Gelber	Lee	Seiler	

Votes after roll call:
Yeas—Crow

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 1845—A bill to be entitled An act relating to the criminal use of personal information; amending s. 817.568, F.S.; providing that the willful and fraudulent use of personal identification information of another individual is a felony of the second degree if the value of the pecuniary benefit services received, payment sought to be avoided, or injury or fraud perpetrated is of a specified amount or more; providing for reclassification of certain offenses involving the criminal use of personal-identification information if the offense was facilitated by the use of a public record; requiring that such offense be prosecuted in the county where the victim resides or in a county where any element of the offense occurred; limiting the time within which a person who fraudulently uses personal-identification information must be prosecuted; amending s. 921.0022, F.S., relating to the the offense severity ranking chart of the Criminal Punishment Code; ranking offenses relating to fraudulent use of personal identification information; providing an effective date.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 765883)

Technical Amendment 2—On page 1, line 21,
remove from the bill: "the the"

and insert in lieu thereof: the

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

The question recurred on the passage of HB 1845. The vote was:

Session Vote Sequence: 220

Yeas—108

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

Nays—None

Votes after roll call:
Yeas—Ball, Brown, Brummer, Crow, Wiles, Wilson

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 1931—A bill to be entitled An act relating to state-administered retirement programs; amending s. 112.363, 121.052, 121.055, and 121.071, F.S.; changing the employer contribution for the retiree health insurance subsidy; amending s. 121.4501, F.S.; modifying provisions relating to opportunity to transfer between the Public Employee Optional Retirement Program and the defined benefit program of the Florida Retirement System, to establish the means by which the cost of such transfers would be covered; amending s. 121.571, F.S.; adding cross references; providing a finding of important state interest; providing an effective date.

—was read the third time by title.

Representative(s) Fasano offered the following:

(Amendment Bar Code: 235483)

Amendment 2 (with title amendment)—On page 1, line 19, of the bill

insert:

Section 1. Subsection (1), paragraph (a) of subsection (2), paragraph (e) of subsection (4), paragraph (b) of subsection (8), and paragraphs (a) and (b) of subsection (9) of section 121.4501, Florida Statutes, are amended, and paragraph (f) is added to subsection (9) of said section, to read:

121.4501 Public Employee Optional Retirement Program.—

(1) The Trustees of the State Board of Administration shall establish an optional defined contribution retirement program for members of the Florida Retirement System under which retirement benefits will be provided for eligible employees who elect to participate in the program. The benefits to be provided for or on behalf of participants in such optional retirement program shall be provided through employee-directed investments, in accordance with s. 401(a) of the Internal Revenue Code and its related regulations. The employers shall contribute, as provided in this section and s. 121.571, *to the Public Employee Optional Retirement Program Trust Fund* toward the funding of such optional benefits.

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

(a) "Approved provider" or "provider" means a private sector company that is selected and approved by the state board to offer one or more investment products or services to the Public Employee Optional Retirement Program*, including a "bundled provider" that offers participants a range of individually allocated or unallocated investment products and may offer a range of administrative and customer services, which may include accounting and administration of individual participant benefits and contributions; individual participant*

recordkeeping; asset purchase, control, and safekeeping; direct execution of the participant's instructions as to asset and contribution allocation; calculation of daily net asset values; direct access to participant account information; periodic reporting to participants, at least quarterly, on account balances and transactions; direct advice and guidance on its investments options; a broad array of distribution options; and asset allocation and retirement counseling and education. Private sector companies include investment management companies, insurance companies, depositories, and mutual fund companies.

(4) PARTICIPATION; ENROLLMENT.—

(e) After the period during which an eligible employee had the choice to elect the defined benefit program or the Public Employee Optional Retirement Program, the employee shall have one opportunity, *that is, a second election,* ~~at the employee's discretion,~~ to choose to move from the defined benefit program to the Public Employee Optional Retirement Program or from the Public Employee Optional Retirement Program to the defined benefit program. This paragraph shall be contingent upon approval from the Internal Revenue Service for including the choice described herein within the programs offered by the Florida Retirement System.

1. If the employee chooses to move to the Public Employee Optional Retirement Program, the applicable provisions of this section shall govern the transfer.

2. If the employee chooses to move *from the Public Employee Optional Retirement Program* to the defined benefit program, the employee must transfer from his or her *optional program* ~~Public Employee Optional Retirement Program~~ account and from other employee moneys as necessary, a sum representing all contributions that would have been made to the defined benefit plan for that employee and the actual return that would have been earned on those contributions had they been invested in the defined benefit program.

If, at the time of a member's election to transfer to the defined benefit program, the member's optional program account does not contain the total amount required to be transferred to the defined benefit program, the member must pay the remaining balance. If the member's optional program account contains more than the amount required to be transferred to the defined benefit program, such additional amount shall remain in the member's optional program account.

(8) ADMINISTRATION OF PROGRAM.—

(b)1. The state board shall select and contract with one third-party administrator to provide administrative services*, where those services do not duplicate services provided by the Division of Retirement within the Department of Management Services*. With the approval of the state board, the third-party administrator may subcontract with other organizations or individuals to provide components of the administrative services. As a cost of administration, the board may compensate any such contractor for its services, in accordance with the terms of the contract, as is deemed necessary or proper by the board. The third-party administrator may not be an approved provider or be affiliated with an approved provider.

2. *These* administrative services *may* include, but are not limited to, *enrollment of eligible employees, collection of employer contributions, disbursement of such contributions to approved providers in accordance with the allocation directions of participants;* services relating to consolidated billing; individual and collective recordkeeping and accounting; asset purchase, control, and safekeeping; and direct disbursement of funds to and from the third-party administrator, the division, the board, employers, participants, approved providers, and beneficiaries. *Nothing in this section shall prevent or prohibit a bundled provider from providing any administrative or customer service, including accounting and administration of individual participant benefits and contributions; individual participant recordkeeping; asset purchase, control, and safekeeping; direct execution of the participant's instructions as to asset and contribution allocation; calculation of daily net asset values; direct access to participant account information; periodic reporting to participants, at least quarterly, on account balances and transactions.*

3. The state board shall select and contract with one or more organizations to provide educational services. With approval of the board, the organizations may subcontract with other organizations or individuals to provide components of the educational services. As a cost of administration, the board may compensate any such contractor for its services in accordance with the terms of the contract, as is deemed necessary or proper by the board. The education organization may not be an approved provider or be affiliated with an approved provider.

4. Educational services shall be designed by the board and department to assist employers, eligible employees, participants, and beneficiaries in order to maintain compliance with United States Department of Labor regulations under s. 404(c) of the Employee Retirement Income Security Act of 1974 and to assist employees in their choice of defined benefit or defined contribution retirement alternatives. Educational services include, but are not limited to, disseminating educational materials; providing retirement planning education; explaining the differences between the defined benefit retirement plan and the defined contribution retirement plan; and offering financial planning guidance on matters such as investment diversification, investment risks, investment costs, and asset allocation. An approved provider may also provide educational information, including retirement planning and investment allocation information concerning its products and services.

(9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

(a) The board shall develop policy and procedures for selecting, evaluating, and monitoring the performance of approved providers and investment products to which employees may direct retirement contributions under the program. In accordance with such policy and procedures, the board shall designate and contract for a number of investment products as determined by the board. The board shall *also* select one or more *bundled* providers*, each of whom* ~~who~~ offer *nine* ~~multiple~~ investment *options and related services* ~~products~~ when such an approach is determined by the board to afford value to the participants otherwise not available through individual investment products. *Each approved bundled provider may offer investment options that provide participants with the opportunity to invest in each of the following asset classes, to be composed of individual options that represent either a single asset class or a combination thereof: money markets, U.S. fixed income, U.S. equities, and foreign stock.* The board shall review and manage all educational materials, contract terms, fee schedules, and other aspects of the approved provider relationships to ensure that no provider is unduly favored or penalized by virtue of its status within the plan.

(b) The board shall consider investment options or products it considers appropriate to give participants the opportunity to accumulate retirement benefits, subject to the following:

1. The Public Employee Optional Retirement Program must offer a diversified mix of low-cost investment products that span the risk-return spectrum*, and may include a guaranteed account as well as investment products such as individually allocated guaranteed and variable annuities, that meet the requirements of this subsection and that combine the ability to accumulate investment returns with the option of receiving lifetime income consistent with the long-term retirement security of a pension plan and similar to the lifetime income benefit provided by the Florida Retirement System*.

2. Investment options or products offered by the group of approved providers may include mutual funds, group annuity contracts, individual retirement annuities, interests in trusts, collective trusts, separate accounts, and other such financial instruments*, and shall include products that give participants the option of committing their contributions for an extended time period in an effort to obtain higher returns than could be obtained from investment products offering full liquidity*.

3. The board shall not contract with any provider that imposes a front-end, back-end, contingent, or deferred sales charge, or any other fee that limits or restricts the ability of participants to select any

investment product available in the optional program. *This prohibition shall not apply to fees or charges that are imposed on withdrawals from products that give participants the option of committing their contributions for an extended time period in an effort to obtain higher returns than could be obtained from investment products offering full liquidity, provided that the product in question, net of all fees and charges, produces material benefits relative to other comparable products in the program offering full liquidity.*

4. Fees or charges for insurance features, such as mortality and expense risk charges, shall be reasonable relative to the benefits provided.

(f)1. An approved provider shall comply with all applicable federal and state securities and insurance laws and regulations, as well as the applicable rules and guidelines of the National Association of Securities Dealers (NASD) governing the ethical marketing of investment products. In furtherance of this mandate, an approved provider must agree in its contract with the board to establish and maintain a compliance education and monitoring system to supervise the activities of all personnel who directly communicate with individual participants and recommend investment products, which system is consistent with National Association of Security Dealers rules.

2. Approved provider personnel who directly communicate with individual participants and who recommend investment products shall make an independent and unbiased determination as to whether an investment product is suitable for a particular participant.

3. The board shall develop procedures to receive and resolve participant complaints against a provider or approved provider personnel, and, when appropriate, refer such complaints to the appropriate regulatory agency.

4. Approved providers are prohibited from selling or in any way distributing any customer list or participant identification information generated through their offering of products or services through the optional retirement program.

Section 2. *The appointment of the executive director of the State Board of Administration shall be subject to the approval by a majority vote of the Board of Trustees of the State Board of Administration and the Governor must vote on the prevailing side. Such appointment must be reaffirmed in the same manner by the Board of Trustees on an annual basis.*

And the title is amended as follows:

On page 1, line 3, after "programs;"

insert: amending s. 121.4501, F.S.; redefining the term "approved provider"; providing requirements for the State Board of Administration in carrying out its duties under the program; providing requirements for approved providers regarding federal and state laws and regulations, and for communications with participants; providing requirements for the appointment of the executive director of the State Board of Administration;

Rep. Fasano moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Further consideration of **HB 1931**, was temporarily postponed under Rule 11.10.

HB 1981—A bill to be entitled An act relating to tax administration; amending s. 45.031, F.S.; providing for notice of disbursement of the proceeds of a judicial sale to the Department of Revenue under certain conditions when it was performing unemployment compensation tax collection services pursuant to a contract with the Agency for Workforce Innovation; amending s. 69.041, F.S.; authorizing the department to participate in the distribution of surplus funds remaining after such disbursement when it has an interest in an unemployment compensation tax lien pursuant to such a contract; amending s. 213.053, F.S.; providing application of confidentiality and information sharing provisions to ch. 443, F.S., while the department is performing such tax collection services; amending s. 11, ch. 2000-165, Laws of Florida; specifying that the department is administering a revenue law when it provides such tax collection services and specifying the provisions of ch. 213, F.S., that apply thereto; amending s. 201.02, F.S.; providing that the documentary stamp tax on deeds and other instruments relating to real property or interests in real property does not apply to a contract to sell the residence of an employee relocating at an employer's direction, or related documents, under specified circumstances; providing intent; exempting deeds and other instruments whereby property is conveyed from an electric utility to a regional transmission organization from said tax under certain circumstances; amending s. 212.02, F.S.; excluding from the definition of "lease," "let," "rental," or "license" payments made by such an organization to an electric utility under certain conditions; amending s. 212.031, F.S.; exempting property occupied or used by certain regional transmission organizations from the tax on the lease or rental of or license in real property; amending s. 212.06, F.S.; revising the definition of "fixtures" for purposes of determining if a person is improving real property under ch. 212, F.S.; providing intent; amending s. 212.08, F.S.; specifying conditions for receipt of sales tax exemptions provided to an entity under ch. 212, F.S., and subsection (7) of said section; providing for retroactive application; deleting obsolete provisions relating to registration with the WAGES Program Business Registry; providing for retroactive application; reinstating retroactively the sales tax exemption for parent-teacher organizations and parent-teacher associations; eliminating the specific sales tax exemption for organizations providing crime prevention, drunk driving prevention, and juvenile delinquency prevention services; providing for determination of a mileage apportionment factor for the first year of operation in this state of vessels, railroads, or motor vehicles engaged in interstate or foreign commerce and entitled to a partial sales tax exemption; correcting references; requiring a purchaser to file an affidavit stating the exempt nature of a purchase with the vendor instead of the department for purposes of the sales tax exemption for machinery and equipment used to produce electrical or steam energy; providing for retroactive application; revising the application of the sales tax exemption for the sale of drinking water in bottles or other containers; replacing the definitions of "section 38 property" with express definitions of "industrial machinery and equipment" and "motion picture or video equipment" and "sound recording equipment" for purposes of the sales tax exemptions therefor; providing intent and purpose; providing that provisions authorizing a partial sales tax exemption for a motor vehicle sold to a resident of another state do not require payment of tax to this state for prior assessments under certain conditions; providing for retroactive application; providing that a vehicle purchased by a nonresident corporation or partnership is not eligible for the partial sales tax exemption under certain circumstances; repealing s. 212.084(6), F.S.; eliminating provisions for temporary sales tax exemption certificates for newly organized charitable organizations; repealing s. 4, ch. 96-395, Laws of Florida, which provides for the repeal of sales tax exemptions for certain citizen support organizations and the Florida Folk Festival; providing for retroactive application; amending s. 213.285, F.S.; delaying the future repeal of the certified audits project; amending ss. 213.053 and 213.21, F.S., to conform; amending s. 213.30, F.S., relating to compensation for information relating to a violation of tax laws; specifying that said section is the only available means of obtaining compensation for information regarding another person's failure to comply with the state's tax laws; providing applicability; repealing s. 213.27(9), F.S., which authorizes the department to contract with certain vendors to develop and implement a voluntary system for sales and use tax collection and administration; creating s. 213.256, F.S., the Simplified Sales and Use Tax Administration Act; defining terms; authorizing the department's participation in the Streamlined Sales and Use Tax Agreement; providing that the agreement must require each state to abide by certain requirements in order for the department to enter into the agreement; authorizing the state to enter into multistate discussions and providing for appointment of delegates; specifying relationship of the agreement to state law; specifying the effect of the agreement with respect to persons other than member states; providing that government actions or state laws cannot be challenged on the basis of inconsistency with the agreement; providing liabilities and responsibilities of sellers, certified service providers, and providers of certified automated systems; providing for maintenance of confidentiality of certain information; providing a penalty; requiring the department to make annual recommendations to the Legislature

regarding compliance with the agreement; reviving and readopting s. 215.20(3), F.S., which provides for deduction of a service charge from certain trust funds; amending s. 220.22, F.S.; eliminating the initial year's corporate tax information return for subchapter S subsidiaries and directing the department to designate by rule entities that are not required to file a corporate tax return; amending s. 443.131, F.S.; reducing the Unemployment Compensation Trust Fund balance thresholds used in computing unemployment compensation contribution rate adjustment factors; creating s. 443.1315, F.S.; providing definitions; providing for treatment of Indian tribes under the Unemployment Compensation Law; providing that Indian tribes or tribal units may elect to make payments in lieu of contributions and providing requirements with respect thereto; providing that such Indian tribe or tribal unit may be required to file a bond or deposit security at the discretion of the director of the Agency for Workforce Innovation; providing effect of failure of such tribe or unit to make required payments; providing requirements for notices; providing responsibility for certain extended benefits; providing for rules; providing for retroactive application; repealing s. 624.509(10), F.S., which provides an exemption from the insurance premium tax for insurers who write monoline flood insurance policies not subsidized by the Federal Government; providing effective dates.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 751745)

Technical Amendment 3—On page 70, line 28,
remove from the bill: (1) On page 72, line 3,
remove from the bill: (3)

and insert in lieu thereof: *(3)*

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

Representative(s) Wallace offered the following:

(Amendment Bar Code: 534261)

Amendment 4 (with title amendment)—On page 12, between lines 25 and 26,

insert:

Section 8. Paragraph (b) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

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

(5) EXEMPTIONS; ACCOUNT OF USE.—

(b) Machinery and equipment used to increase productive output.—

1. Industrial machinery and equipment purchased for exclusive use by a new business in spaceport activities as defined by s. 212.02 or for use in new businesses which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2.a. Industrial machinery and equipment purchased for exclusive use by an expanding facility which is engaged in spaceport activities as defined by s. 212.02 or for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state are exempt from any amount of tax imposed by this chapter in excess of *$40,000* ~~$50,000~~ per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded facility or business by not less than 10 percent.

b. Notwithstanding any other provision of this section, industrial machinery and equipment purchased for use in expanding printing manufacturing facilities or plant units that manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state are exempt from any amount of tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such an expanded business by not less than 10 percent.

3.a. To receive an exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph 2., the department shall issue such permit.

b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery and equipment pursuant to subparagraph 1. or subparagraph 2., the temporary tax permit shall be delivered to the department or returned to the department by certified or registered mail.

c. If, in a subsequent audit conducted by the department, it is determined that the machinery and equipment purchased as exempt under subparagraph 1. or subparagraph 2. did not meet the criteria mandated by this paragraph or if commencement of production did not occur, the amount of taxes exempted at the time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.

d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the department required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph 2. through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph 2. have been met and commencement of production has occurred.

4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery or equipment purchased or used by electric utility companies, communications companies, oil or gas exploration or production operations, publishing firms that do not export at least 50 percent of their finished product out of the state, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, or any firm which does not manufacture, process, compound, or produce for sale items of tangible personal property or which does not use such machinery and equipment in spaceport activities as required by this paragraph. The exemptions provided in subparagraphs 1. and 2. shall apply to machinery and equipment purchased for use in phosphate or other solid minerals severance, mining, or processing operations only by way of a prospective credit against taxes due under chapter 211 for taxes paid under this chapter on such machinery and equipment.

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue

Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of spaceport activities or of the manufacturing, processing, compounding, or producing for sale of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; provided, however, in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

And the title is amended as follows:

On page 1, line 14, after the semicolon,

insert: amending s. 212.08, F.S.; reducing the maximum amount of the tax which is imposed upon industrial machinery and equipment;

Rep. Wallace moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 1981. The vote was:

Session Vote Sequence: 221

Yeas—109

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

Nays—4

Bucher	Gottlieb	Lee	Smith

Votes after roll call:
Yeas—Peterman

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 1909—A bill to be entitled An act relating to trust funds; creating s. 287.103, F.S.; creating the Purchasing and Transportation Support Trust Fund, to be administered by the Department of Management Services; providing for sources of funds and purposes; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 222

Yeas—116

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

Nays—None

Votes after roll call:
Yeas—Gottlieb

So the bill passed by the required constitutional three-fifths vote of the membership and was immediately certified to the Senate.

HB 1941—A bill to be entitled An act relating to trust funds; terminating specified trust funds within the Department of Management Services and the Agency for Workforce Innovation; providing for disposition of balances in and revenues of such trust funds; declaring the findings of the Legislature that specified trust funds within the Department of Management Services are exempt from the termination requirements of s. 19(f), Art. III of the State Constitution; renaming specified trust funds within the Department of Management Services and the Department of Education; amending s. 272.161, F.S.; providing for the deposit of fees from rental of reserved parking spaces into the Facilities Management Trust Fund, to conform; amending s. 284.01, F.S.; providing for rental value insurance for loss of income from certain buildings operated and maintained by the Department of Management Services from the Facilities Management Trust Fund, to conform; amending s. 235.2195, F.S.; providing for deposit of proceeds from bond sales under the 1997 School Capital Outlay Bond Program into the Lottery Capital Outlay and Debt Service Trust Fund; amending

s. 215.196, F.S.; providing for deposit of proceeds from fixed capital outlay management assessments into the Facilities Management Trust Fund, to conform; amending s. 287.16, F.S.; providing for deposit of proceeds from fees charged to state agencies to which aircraft or motor vehicles are furnished into the Purchasing and Transportation Support Trust Fund; amending s. 287.161, F.S.; providing for deposit of proceeds from fees collected for use of the executive aircraft pool into the Purchasing and Transportation Support Trust Fund, to conform; amending s. 217.07, F.S.; providing for deposit of federal surplus property assets into the Purchasing and Transportation Support Trust Fund, to conform; amending s. 287.042, F.S.; providing for deposit of proceeds from fees collected for use of electronic information services of the Department of Management Services and for deposit of funds from certain governmental agencies pursuant to joint purchasing agreements into the Purchasing and Transportation Support Trust Fund, to conform; amending s. 287.1345, F.S.; providing for deposit of proceeds from the surcharge on users of state term contracts into the Purchasing and Transportation Support Trust Fund, to conform; expanding uses of the surcharge proceeds; amending s. 215.22, F.S.; providing for the Technology Enterprise Trust Fund to be exempt from the general revenue service charge, to conform; amending s. 216.292, F.S.; providing for billings for state communications system services to be transferred to the Technology Enterprise Trust Fund, to conform; repealing s. 282.20(6), F.S., relating to the Technology Resource Center's reserve account of its working capital trust fund, to conform; repealing s. 110.151(7), F.S., relating to reestablishment of the State Employee Child Care Revolving Trust Fund, to conform; providing for contingent effect of certain provisions; providing effective dates.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 223

Yeas—117

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

Nays—2

Brutus	Meadows

Votes after roll call:
Nays to Yeas—Brutus, Meadows

So the bill passed by the required constitutional three-fifths vote of the membership and was immediately certified to the Senate.

CS/HB 1633—A bill to be entitled An act relating to student assessment; amending s. 229.57, F.S.; revising provisions relating to the designation of school performance grade categories; revising the basis for such designations; revising provisions relating to statewide annual assessments; revising provisions relating to the use of a statistical system for assessment; requiring the Commissioner of Education to establish a schedule for administration of assessments; reenacting ss. 230.23(16)(c), 231.085(4), 231.17(15), 231.29(3)(a), and 231.2905(4), F.S., relating to supplements for teachers based on assessment of student learning gains, use of student assessment data, comparison of routes to a professional certificate, assessment procedures for school personnel, and the School Recognition Program, to incorporate the amendment to s. 229.57, F.S., in references thereto; providing an effective date.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 762333)

Technical Amendment 2 (with title amendment)—On page 10, line 20,
remove from the bill: all of said line

and insert in lieu thereof:

Section 3. *The Department of Education, in consultation with*

And the title is amended as follows:

On page 1, line 21, after the semicolon

insert: providing Department of Education duties relating to identification of student learning gains;

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

The question recurred on the passage of CS/HB 1633. The vote was:

Session Vote Sequence: 224

Yeas—68

The Chair	Bilirakis	Green	Maygarden
Alexander	Bowen	Haridopolos	Mealor
Allen	Brown	Harrell	Melvin
Andrews	Brummer	Harrington	Miller
Argenziano	Byrd	Hart	Murman
Arza	Cantens	Johnson	Needelman
Attkisson	Carassas	Kallinger	Negron
Atwater	Clarke	Kendrick	Pickens
Baker	Crow	Kilmer	Prieguez
Ball	Davis	Kottkamp	Ross
Barreiro	Diaz de la Portilla	Kyle	Russell
Baxley	Dockery	Lacasa	Simmons
Bean	Farkas	Littlefield	Sorensen
Bennett	Fasano	Lynn	Spratt
Bense	Fiorentino	Mack	Stansel
Benson	Gardiner	Mahon	Trovillion
Berfield	Gibson	Mayfield	Wallace

Nays—43

Ausley	Gannon	Jennings	Meadows
Bendross-Mindingall	Gelber	Joyner	Peterman
Betancourt	Goodlette	Justice	Rich
Brutus	Gottlieb	Kosmas	Richardson
Bucher	Greenstein	Kravitz	Ritter
Bullard	Harper	Lee	Romeo
Cusack	Henriquez	Lerner	Ryan
Fields	Heyman	Machek	Seiler
Frankel	Holloway	McGriff	Siplin

Slosberg	Sobel	Wiles	Wishner
Smith	Weissman	Wilson	

Votes after roll call:
Yeas—Paul
Nays—Garcia

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 1811—A bill to be entitled An act relating to information technology; amending s. 20.22, F.S.; creating the State Technology Office within the Department of Management Services; requiring the office to operate and manage the Technology Resource Center; amending s. 110.205, F.S.; providing that specified officers within the State Technology Office are exempt from career service; providing that the office shall set the salaries and benefits for such officers in accordance with the rules of the Senior Management Service; providing for the personal secretary to specified officers within the State Technology Office to be exempt from career service; providing for all managers, supervisors, and confidential employees of the State Technology Office to be exempt from career service; providing that the office shall set the salaries and benefits for those positions in accordance with the rules of the Selected Exempt Service; amending s. 186.022, F.S.; revising the entities required to annually develop and submit an information technology strategic plan; providing for the State Technology Office to administer and approve development of information technology strategic plans; amending s. 216.013, F.S.; revising provisions relating to the review of long-range program plans for executive agencies by the Executive Office of the Governor; providing that the Executive Office of the Governor shall consider the findings of the State Technology Office with respect to the State Annual Report on Enterprise Resource Planning and Management and statewide policies adopted by the State Technology Office; amending s. 216.0446, F.S., relating to review of agency information resources management needs; eliminating the Technology Review Workgroup; providing for assumption of the duties of the Technology Review Workgroup by the State Technology Office; requiring the reporting of specified information to the Executive Office of the Governor; providing powers and duties of the State Technology Office; amending s. 216.181, F.S., relating to approved budgets for operations and fixed capital outlay; providing requirements with respect to an amendment to the original approved operating budget for specified information technology projects or initiatives; amending s. 216.235, F.S.; transferring specified responsibilities with respect to the Innovation Investment Program Act from the Department of Management Services to the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor; revising the membership of the State Innovation Committee; amending s. 216.292, F.S.; authorizing state agencies to transfer positions and appropriations for fiscal year 2001-2002 for the purpose of consolidating information technology resources to the State Technology Office; amending s. 282.005, F.S.; revising legislative findings and intent with respect to the Information Resources Management Act of 1997; providing that the State Technology Office has primary responsibility and accountability for information technology matters within the state except as to information technology or information technology personnel that a constitutional officer under s. 4 Art. 4 deems necessary for the performance of his or her constitutional or statutory duties; amending and renumbering s. 282.303, F.S.; revising definitions; defining "information technology"; amending s. 282.102, F.S.; revising powers and duties of the State Technology Office; providing that the office shall be a separate budget entity within the Department of Management Services; providing that the Chief Information Officer shall be considered an agency head; providing for administrative support and service from Department of Management Services; authorizing the office to perform, in consultation with a state agency, the enterprise resource planning and management for the agency; authorizing the office to apply for, receive, and hold specified patents, copyrights, trademarks, and service marks; authorizing the office to purchase, lease, hold, sell, transfer, license, and dispose of specified real, personal, and intellectual property; providing for deposit of specified fees in the Law Enforcement Radio Operating Trust Fund; providing for a State Chief Privacy Officer; amending s. 282.103, F.S., to conform; authorizing the State Technology Office to grant an agency exemption from required use of specified SUNCOM Network services; amending s. 282.104, F.S., to conform; amending s. 282.105, F.S., to conform; amending s. 282.106, F.S., to conform; amending s. 282.1095, F.S., relating to the state agency law enforcement radio system; providing conforming amendments; renaming the State Agency Law Enforcement Radio System Trust Fund as the Law Enforcement Radio Operating Trust Fund; requiring the office to establish policies, procedures, and standards for a comprehensive plan for a statewide radio communications system; eliminating provisions relating to establishment and funding of specified positions; amending s. 282.111, F.S., to conform; amending s. 282.20, F.S., relating to the Technology Resource Center; providing conforming amendments; removing provisions relating to the acceptance of new customers by the center; authorizing the center to spend funds in the reserve account of the Technology Enterprise Operating Trust Fund; amending s. 282.21, F.S., to conform; amending s. 282.22, F.S.; revising terminology; removing specified restrictions on the office's authority to sell services; creating s. 282.23, F.S.; authorizing the State Technology Office, in consultation with the Department of Management Services, to establish a State Strategic Information Technology Alliance; providing purposes of the alliance; providing for the establishment of policies and procedures; repealing s. 282.3041, F.S., which provides that the head of each state agency is responsible and accountable for enterprise resource planning and management within the agency; amending s. 282.3055, F.S.; authorizing the Chief Information Officer to appoint or contract for Agency Chief Information Officers to assist in carrying out enterprise resource planning and management responsibilities; amending s. 282.3063, F.S.; requiring Agency Chief Information Officers to prepare and submit an Agency Annual Enterprise Resource Planning and Management Report; amending s. 282.315, F.S.; renaming the Chief Information Officers Council as the Agency Chief Information Officers Council; revising the voting membership of the council; amending amending s. 282.318, F.S., to conform; amending s. 282.322, F.S.; requiring the Enterprise Project Management Office of the State Technology Office to report on, monitor, and assess risk levels of specified high-risk technology projects; amending s. 216.163, F.S.; providing that the Governor's recommended budget shall include recommendations for specified high-risk information technology projects; amending s. 119.07, F.S.; defining "information technology resources" and "data processing software"; amending ss. 119.083, F.S.; correcting cross references; requiring certain state agencies to transfer described positions and administrative support personnel to the State Technology Office by specified dates; providing limits on the number of positions and administrative support personnel transferred; providing that the State Technology Office and the relevant agencies are authorized to request subsequent transfers of positions, subject to approval by the Legislative Budget Commission; providing requirements with respect to transferred resources which were dedicated to a federally funded system; providing appropriations; repealing s. 282.404, F.S.; abolishing the Florida Geographic Information Board within the State Technology Office; provides for Legislative Budgeting Commission review of certain agency plans, State Technology Office policies, and certain budget amendments; providing an effective date.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 780059)

Technical Amendment 9 (with title amendment)—On page 51, lines 19 & 20,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 27. Section 282.322, Florida Statutes, is amended to read:

282.322 Special monitoring process for designated information resources management projects.
and on page 57, lines 12 & 13,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 33. Subsection (6) is added to section 11.90, Florida Statutes, to read:

And the title is amended as follows:

On page 2, lines 7 through 21,
remove from the title of the bill: all of said lines

and insert in lieu thereof: amending s. 216.0446, F.S.; relating to review of agency information resources management needs; providing that the Technology Review Workgroup and the State Technology Office shall independently review specified long-range program plans and make recommendations with respect thereto; providing reporting requirements; revising powers and duties of the Technology Review Workgroup; amending s. 216.181, F.S.; relating to approved budgets for operations and fixed capital outlay; providing requirements with respect to an amendment to the original operating budget for specified information technology projects or initiatives;
and on page 3, lines 9 through 14,
remove from the title of the bill: all of said lines

and insert in lieu thereof: matters within the state; providing that the office shall take no action with respect to specified information technology and information technology personnel deemed necessary by cabinet officers; amending and renumbering s.
On page 6, lines 22 through 25,
remove from the title of the bill: all of said lines

and insert in lieu thereof: State Technology Office; amending s. 11.90, F.S.; requiring the Legislative Budgeting Commission to review specified information resources management needs, State Technology Office policies, and specified budget amendments;

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

The question recurred on the passage of HB 1811. The vote was:

Session Vote Sequence: 225

Yeas—116

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

Nays—None

Votes after roll call:
Yeas—Paul

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

Consideration of **SB 814** was temporarily postponed under Rule 11.10.

SB 540—A bill to be entitled An act relating to criminal activities; creating the White Collar Crime Victim Protection Act; providing legislative intent; providing definitions; specifying crimes and acts that constitute a white collar crime; providing that a person commits an aggravated white collar crime if the white collar crime is committed against certain persons or against a state agency or political subdivision; providing enhanced penalties for aggravated white collar crimes; requiring that a defendant convicted of an aggravated white collar crime pay court costs and restitution; requiring that payment of restitution be a condition of probation; amending s. 910.15, F.S.; providing that a communication made by or through the use of the Internet was made in every county of the state for purposes of prosecuting certain fraudulent practices; amending s. 921.0022, F.S.; adding certain aggravated white collar crimes to the Criminal Punishment Code offense severity ranking chart; providing for severability; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 226

Yeas—114

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

Nays—3

Arza	Flanagan	Sorensen

Votes after roll call:
Nays to Yeas—Arza, Flanagan, Sorensen

So the bill passed and was immediately certified to the Senate.

SB 814—A bill to be entitled An act relating to the entertainment industry; amending s. 288.1251, F.S.; renaming the Office of the Film Commissioner as the Office of Film and Entertainment; renaming the Film Commissioner as the Commissioner of Film and Entertainment;

authorizing receipt and expenditure of certain grants and donations; requiring such funds to be deposited in the Grants and Donations Trust Fund of the Executive Office of the Governor; amending s. 288.1252, F.S.; renaming the Florida Film Advisory Council as the Florida Film and Entertainment Advisory Council; adding a representative of Workforce Florida, Inc., as an ex officio, nonvoting member of the council; requiring the council chair to be elected from the council's appointed membership; amending ss. 212.097 and 212.098, F.S.; expanding the definition of "eligible business" under the Urban High-Crime-Area Job Tax Credit Program and the Rural Job Tax Credit Program to include certain businesses involved in motion picture production and allied services; amending ss. 14.2015, 213.053, 288.1253, and 288.1258, F.S.; conforming provisions to changes made by the act; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 227

Yeas—117

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

Nays—None

Votes after roll call:
Yeas—Bucher, McGriff

So the bill passed and was immediately certified to the Senate.

HB 1673—A bill to be entitled An act relating to acts of violence; providing a short title; amending s. 39.301, F.S.; requiring that staff who conduct child protective investigations receive training on removing a perpetrator of domestic violence from the home by use of injunction; creating s. 741.283, F.S.; requiring that the court order a person to serve a minimum term of imprisonment as part of any sentence imposed for an offense of domestic violence that intentionally caused bodily harm to another person; providing an exception if the person is incarcerated for such offense; amending s. 784.03, F.S.; providing that a person commits felony battery if the offense is a second or subsequent conviction of any type of battery offense; creating s. 938.08, F.S.; requiring that the court impose an additional surcharge for any offense of domestic violence and other assault, battery, and stalking offenses; providing for deposit of a portion of the surcharge into the Domestic Violence Trust Fund; providing for the clerk of the court to retain a service charge; requiring that a portion of the surcharge be used to train law enforcement personnel in combating domestic violence; amending s. 948.03, F.S.; requiring that a person convicted of an offense of domestic violence complete a batterers' intervention program; requiring that the offender pay the cost of attending the program; amending s. 741.01, F.S.; authorizing the Executive Office of the Governor to use a specified amount from the Domestic Violence Trust Fund to fund a public-awareness campaign on domestic violence; amending s. 741.281, F.S.; requiring the court to impose the batterers' intervention program as a condition of probation; providing for an exception; requiring that the batterers' intervention program be certified; providing an effective date.

—was read the third time by title.

On motion by Rep. Kyle, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Kyle offered the following:

(Amendment Bar Code: 893717)

Amendment 2—On page 4, lines 19-22,
remove from the bill: all of said lines

and insert in lieu thereof:
surcharge shall be provided to the governing board of the county and must be used only to defray the costs of incarcerating persons sentenced under s. 741.283 and provide additional training to law enforcement personnel in combating domestic violence.

Rep. Kyle moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 1673. The vote was:

Session Vote Sequence: 228

Yeas—113

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

Nays—1

Lerner

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

CS/HB 1803—A bill to be entitled An act relating to workers' compensation; amending s. 61.14, F.S.; requiring a judge of compensation claims to consider the interests of the worker and the worker's family when approving settlements of workers' compensation claims; requiring appropriate recovery of any child support arrearage from such settlements; amending s. 61.30, F.S.; providing that gross income includes all workers' compensation benefits and settlements; amending s. 112.3145, F.S.; redefining the term "specified state employee" to include the Deputy Chief Judge of Compensation Claims; amending s. 120.65, F.S.; establishing requirements for the Deputy Chief Judge; amending s. 121.055, F.S.; including the Deputy Chief Judge in the Senior Management Service Class of the Florida Retirement System; conforming provisions to the transfer of the judges of compensation claims from the Department of Labor and Employment Security to the Division of Administrative Hearings; amending s. 381.004, F.S.; conforming provisions to the transfer of the judges of compensation claims to the Division of Administrative Hearings; amending s. 440.02, F.S.; revising a monetary limit in a definition; excluding certain sports officials from the definition of "employee"; excluding certain work done by state prisoners and county inmates from the definition of "employment"; amending s. 440.09, F.S.; excluding employees covered under the Defense Base Act from payment of benefits; amending s. 440.105, F.S.; reclassifying the Chief Judge of Compensation Claims as the Deputy Chief Judge of Compensation Claims; amending s. 440.12, F.S.; providing for direct deposit of compensation payments; amending s. 440.13, F.S.; revising requirements for submission of certain medical reports and bills; granting rehabilitation providers access to medical records; revising provider eligibility requirements; amending s. 440.134, F.S.; requiring certain insurers to provide medically necessary remedial treatment, care, and attendance under certain circumstances; amending s. 440.14, F.S.; requiring an employee to provide certain information concerning concurrent employment; amending s. 440.185, F.S.; authorizing the division to contract with a private entity for collection of certain policy information; providing application; amending s. 440.192, F.S.; revising requirements and procedures for filing petitions for benefits; permitting judges to dismiss portions of a petition; specifying that dismissal of petitions is without prejudice; amending grounds for dismissal; redesignating the notice of denial as a response to petition; amending s. 440.20, F.S.; providing for payment of compensation by direct deposit under certain circumstances; providing procedural guidelines for certain carriers for certain purposes; revising lump-sum settlement requirements; amending s. 440.22, F.S.; excluding child support and alimony claims from general exemption of workers' compensation benefits from claims of creditors; amending s. 440.25, F.S.; revising mediation procedures; requiring written consent for additional continuances; authorizing the director of the Division of Administrative Hearings to employ mediators; requiring judges of compensation claims to file a report under certain circumstances; eliminating local rule adoption; removing the division's participation in indigency proceedings; conforming provisions to the reclassification of the Chief Judge as the Deputy Chief Judge; amending s. 440.271, F.S.; requiring the First District Court of Appeal to establish a specialized division to hear workers' compensation cases; amending s. 440.29, F.S.; conforming provisions to the reclassification of the Chief Judge as the Deputy Chief Judge; amending s. 440.34, F.S.; providing for attorney's fees in a response to petition; amending s. 440.345, F.S.; revising reporting requirements; amending s. 440.38, F.S.; providing for the type of qualifying security deposit necessary to become a self-insured employer; providing requirements, procedures, and criteria; correcting a cross reference; amending s. 440.44, F.S.; revising record requirements; authorizing the director of the Division of Administrative Hearings to make expenditures relating to the Office of the Judges of Compensation Claims; requiring the office to maintain certain offices and personnel; conforming provisions to the transfer of the Office of the Judges of Compensation Claims to the Division of Administrative Hearings; amending s. 440.442, F.S.; deleting Code of Judicial Conduct requirements; providing for a Code of Judicial Conduct as adopted by the Florida Supreme Court; amending s. 440.45, F.S.; eliminating the Chief Judge position; creating the position of Deputy Chief Judge of Compensation Claims; conforming provisions to the transfer of the judges of compensation claims from the Department of Labor and Employment Security to the Division of Administrative Hearings within the Department of Management Services; requiring nominees for the judges of compensation claims to meet additional experience requirements; authorizing the director of the Division of Administrative Hearings to initiate and investigate complaints against the Deputy Chief Judge and judges of compensation claims and make recommendations to the Governor; revising reporting requirements; requiring the judicial nominating commission to consider whether judges of compensation claims have met certain requirements; providing procedures; authorizing the Governor to appoint certain judges of compensation claims; amending s. 440.47, F.S.; conforming provisions to the reclassification of the Chief Judge as the Deputy Chief Judge; providing that the director of the Division of Administrative Hearings must approve travel expenses; amending s. 440.59, F.S.; revising certain reporting requirements; deleting an injury reporting requirement; deleting an annual reporting requirement of the Chief Judge; amending s. 440.593, F.S.; providing the division with enforcement authority relating to electronic reporting; authorizing the division to assess a civil penalty; authorizing the division to adopt rules; amending ss. 489.114 and 489.510, F.S.; providing an exception to certain workers' compensation coverage evidence requirements; amending ss. 489.115 and 489.515, F.S.; revising certification and registration requirements for initial licensure; amending s. 627.0915, F.S.; eliminating references to the Division of Safety of the Department of Labor and Employment Security in relation to rating plans' workplace safety programs; amending s. 627.311, F.S.; clarifying language with respect to joint underwriters' liability for monetary damages; amending s. 627.914, F.S.; revising the requirements for reports of information by workers' compensation insurers; deleting a reporting requirement for the Division of Workers' Compensation; transferring the Office of the Judges of Compensation Claims to the Division of Administrative Hearings; transferring certain positions from the Division of Workers' Compensation to the Office of Judges of Compensation Claims; providing effective dates.

—was read the third time by title.

Representative(s) Waters offered the following:

(Amendment Bar Code: 225519)

Amendment 5 (with title amendment)—On page 21, between lines 11 & 12 of the bill

insert:

Section 9. Section 440.1025, Florida Statutes, is created to read:

440.1025 Consideration of public employer workplace safety program in rate-setting; program requirements; rulemaking.—For a public employer to be eligible for receipt of specific identifiable consideration under s. 627.0915 for a workplace safety program in the setting of rates, the public employer must have a workplace safety program. At a minimum, the program must include a written safety policy and safety rules, and make provision for safety inspections, preventative maintenance, safety training, first-aid, accident investigation, and necessary record keeping. For purposes of this section, "public employer" means "any agency within state, county, or municipal government employing individuals for salary, wages, or other remuneration." The Division may promulgate rules for insurers to utilize in determining public employer compliance with the requirements of this section.

And the title is amended as follows:

On page 2, line 3, after "benefits;"

insert: creating s. 440.1025, F.S.; providing for consideration of a public employer workplace safety program in rate-setting;

Rep. Waters moved the adoption of the amendment, which was adopted by the required two-thirds vote.

On motion by Rep. Ross, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Ross offered the following:

(Amendment Bar Code: 814327)

Amendment 6—On page 36, lines 15-18,
remove from the bill: all of said lines

and insert in lieu thereof:

(d) With respect to any payment provision under this chapter, a judge of compensation claims must consider whether any and all benefits, including settlements, provide for appropriate recovery of any child support arrearage.

Rep. Ross moved the adoption of the amendment, which was adopted by the required two-thirds vote.

On motion by Rep. Ross, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Ross offered the following:

(Amendment Bar Code: 430231)

Amendment 7—On page 64, line 14, of the bill

before the period insert:
on the basis of the Code of Judicial Conduct

Rep. Ross moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/HB 1803. The vote was:

Session Vote Sequence: 229

Yeas—118

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 1695—A bill to be entitled An act relating to public records; amending s. 229.57, F.S.; providing an exemption from public records requirements for personal identifying information of instructional personnel held by the Department of Education; providing for disclosure of such information to the State Board of Education; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 230

Yeas—117

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

Nays—1

Carassas

Votes after roll call:
Yeas—Justice

So the bill passed, as amended, and was immediately certified to the Senate.

SB 708—A bill to be entitled An act relating to education; amending s. 231.40, F.S.; limiting the amount of pay certain employees of district school systems may receive for unused sick leave upon termination of employment; providing conditions on the use of sick leave; amending s. 231.481, F.S.; limiting the amount of pay certain employees of district school systems may earn for unused vacation leave upon termination of employment; amending s. 240.343, F.S.; limiting the amount of pay certain employees of community college districts may receive for unused sick leave upon termination of employment; providing conditions on the use of sick leave; providing for payment to the employee's beneficiary under specified conditions; providing an effective date.

—was taken up, having been read the third time earlier today.

Representative(s) Needelman offered the following:

(Amendment Bar Code: 922053)

Amendment 1 (with title amendment)—strike everything after the enacting clause and

insert:

Section 1. Paragraph (c) of subsection (5) of section 230.23, Florida Statutes, is amended to read:

230.23 Powers and duties of school board.—The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(5) PERSONNEL.—Designate positions to be filled, prescribe qualifications for those positions, and provide for the appointment, compensation, promotion, suspension, and dismissal of employees as follows, subject to the requirements of chapter 231:

(c)*1.* Compensation and salary schedules.—Adopt a salary schedule or salary schedules designed to furnish incentives for improvement in training and for continued efficient service to be used as a basis for paying all school employees and fix and authorize the compensation of school employees on the basis thereof. A district school board, in determining the salary schedule for instructional personnel, must base a portion of each employee's compensation on performance demonstrated under s. 231.29, must consider the prior teaching experience of a person who has been designated state teacher of the year by any state in the United States, and must consider prior professional experience in the field of education gained in positions in addition to district level instructional and administrative positions. In developing the salary schedule, the district school board shall seek input from parents, teachers, and representatives of the business community. By June 30, 2002, or beginning with the full implementation of an annual assessment of learning gains, whichever occurs later, the adopted district school board budget must include a reserve to fully fund an additional 5 percent supplement for school administrators and instructional personnel. The district's performance-pay policy is subject to negotiation as provided in chapter 447; however, the adopted salary schedule must allow school administrators and instructional personnel who demonstrate outstanding performance, as measured under s. 231.29, to earn a 5 percent supplement in addition to their individual, negotiated salary. The supplements will be funded from the reserve funds adopted in the salary schedule. The Commissioner of Education shall determine whether the district school board's adopted salary schedule complies with the requirement for performance-based pay. If the district school board fails to comply by the required date, the commissioner shall withhold disbursements from the Educational Enhancement Trust Fund to the district until compliance is verified.

2. Terminal pay.—Adopt terminal pay policies for all personnel pursuant to ss. 231.40 and 231.481 and review such policies on an annual basis. Such review must include an analysis of the current-year liability of the district for terminal pay distributions to instructional personnel, administrative personnel, and educational support personnel, respectively.

Section 2. This act shall take effect July 1, 2001.

And the title is amended as follows:

strike the entire title and

insert: A bill to be entitled An act relating to education; amending s. 230.23, F.S.; providing district school board duties regarding terminal pay policies for school district personnel; providing an effective date.

Rep. Needelman moved the adoption of the amendment, which failed to receive the necessary two-thirds vote for adoption. The vote was:

Session Vote Sequence: 231

Yeas—60

Alexander	Bullard	Gibson	Jennings
Argenziano	Cusack	Gottlieb	Joyner
Ausley	Detert	Greenstein	Justice
Ball	Dockery	Harper	Kendrick
Baxley	Farkas	Harrell	Kosmas
Bendross-Mindingall	Fields	Hart	Kravitz
Betancourt	Frankel	Henriquez	Lee
Brutus	Gannon	Heyman	Lerner
Bucher	Gelber	Holloway	Littlefield
Lynn	Peterman	Ross	Sobel
Machek	Pickens	Ryan	Stansel
Mayfield	Rich	Seiler	Weissman
McGriff	Richardson	Siplin	Wiles
Meadows	Ritter	Slosberg	Wilson
Needelman	Romeo	Smith	Wishner

Nays—52

The Chair	Brown	Goodlette	Maygarden
Allen	Brummer	Green	Mealor
Andrews	Byrd	Haridopolos	Melvin
Arza	Cantens	Harrington	Miller
Attkisson	Crow	Hogan	Murman
Atwater	Davis	Johnson	Negron
Baker	Diaz de la Portilla	Jordan	Paul
Bean	Diaz-Balart	Kallinger	Prieguez
Bennett	Fasano	Kilmer	Rubio
Bense	Fiorentino	Kottkamp	Simmons
Benson	Flanagan	Kyle	Sorensen
Berfield	Garcia	Mack	Trovillion
Bowen	Gardiner	Mahon	Wallace

Further consideration of **SB 708** was temporarily postponed under Rule 11.10.

On motion by Rep. Byrd, the rules were waived and the House moved to the order of—

Special Orders

CS for SB 778—A bill to be entitled An act relating to lawyer assistance programs; providing civil immunity for persons making good-faith reports of information to a lawyer assistance program; providing for a presumption of good faith; providing for immunity for certain persons; providing that certain information is subject to the attorney-client privilege; providing for the confidentiality of certain records, proceedings and communications; providing an effective date.

—was read the second time by title.

On motion by Rep. Seiler, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Seiler offered the following:

(Amendment Bar Code: 525319)

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

and insert in lieu thereof:

Section 1. *Civil immunity.—A person who in good faith reports information or takes action in connection with a lawyer assistance program or a person who receives information in connection with a lawyer assistance program is immune from civil liability for reporting the information, taking the action, or taking no action, provided that such person has acted in good faith and without malice.*

Section 2. *Presumption of good faith.—A member of a lawyer assistance program or a person reporting information to a lawyer assistance program is presumed to have acted in good faith and without malice. A person alleging lack of good faith has the burden of proving bad faith and malice.*

Section 3. *Persons entitled to immunity.—The civil immunity provided for in this act shall be liberally construed to accomplish the purposes of this act. The persons entitled to immunity under this act include:*

(1) Florida Lawyers Assistance, Inc., and other lawyer assistance programs approved by the Florida Supreme Court or The Florida Bar which provide assistance to attorneys who may be impaired because of abuse of alcohol or other drugs or because of any other physical or mental infirmity causing impairment.

(2) A member, employee, or agent of the program, association, or nonprofit corporation.

(3) A person who reports or provides information to the program concerning an impaired legal professional, including, but not limited to, a person designated to monitor or supervise the course of treatment or rehabilitation of an impaired professional.

Section 4. *Information subject to privilege.—All privileged information, whether attorney-client, work product, or otherwise, in any form, furnished to the lawyer assistance program shall remain privileged.*

Section 5. *Confidentiality of records, proceedings, and communications.—The records, proceedings, and all communications by and between an individual seeking assistance and the lawyer assistance program shall be deemed confidential and shall not be subject to disclosure or available for court subpoena. This section does not prevent the subpoena of business records that are otherwise available through subpoena, nor does this section preclude release or disclosure of information or communications by the lawyer assistance program when such disclosure is mandated or required as a condition or precondition for entry in the program. Such records are not to be construed as privileged merely because they have been maintained by a lawyer assistance program.*

Section 6. This act shall take effect upon becoming a law.

And the title is amended as follows:
remove from the title of the bill: everything before the enacting clause

and insert in lieu thereof: A bill to be entitled An act relating to lawyer assistance programs; providing civil immunity for persons making good-faith reports of information to a lawyer assistance program; providing for a presumption of good faith; providing for immunity for certain persons; providing that certain information is subject to privilege; providing for the confidentiality of certain records, proceedings, and communications; providing an effective date.

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

On motion by Rep. Kyle, the rules were waived and CS for SB 778, as amended, was read the third time by title. On passage, the vote was:

Session Vote Sequence: 232

Yeas—116

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

On motion by Rep. Arza, the House moved to the consideration of HB 821 on Special Orders.

HB 821—A bill to be entitled An act relating to the City of Miami; providing for the relief of Oscar Ortiz; providing for an appropriation to compensate Oscar Ortiz for injuries and damages sustained as a result of the negligence of the City of Miami; providing for reversion of funds; providing an effective date.

—was read the second time by title.

The Committee on Claims offered the following:

(Amendment Bar Code: 214921)

Amendment 1—On page 3, lines 3 through 9,
remove from the bill: all of said lines

and insert in lieu thereof: *appropriated and to draw warrants payable as follows: upon passage of this bill, the City of Miami shall pay Oscar Ortiz $2,566,667. One year from the first payment, the City of Miami shall pay Oscar Ortiz $1,166,667; and one year from the second payment, the City of Miami shall pay Oscar Ortiz $1,166,666, for a total of*

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

The Committee on Claims offered the following:

(Amendment Bar Code: 250595)

Amendment 2—On page 2, line 15 and line 24,
remove from the bill: 3

and insert in lieu thereof: 2

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

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

On motion by Rep. Byrd, the House moved to the consideration of CS/HB 9 on Bills and Joint Resolutions on Third Reading.

Continuation of Bills and Joint Resolutions on Third Reading

CS/HB 9—A bill to be entitled An act relating to solid waste management; amending s. 165.061, F.S.; providing for the continuation of existing solid waste contracts; requiring written evidence of the duration of the contract within a specified timeframe; amending s. 403.707, F.S.; requiring an applicant for a permit to construct or modify a solid waste management facility to notify the local government of the filing of application; requiring publishing of the application; providing requirements with respect thereto; amending s. 403.71851, F.S.; providing for electronics recycling grants; providing that grant funding shall be used for certain demonstration projects; providing for the Department of Environmental Protection to conduct a comprehensive review of certain waste reduction and recycling goals and other related legislative requirements; providing that the department must issue a report; providing an effective date.

—was read the third time by title.

Representative(s) Harrington offered the following:

(Amendment Bar Code: 765347)

Amendment 3 (with title amendment)—On page 3, line 1

insert:

Section 2. Subsections (37), (38), and (39) of s. 403.061, Florida Statutes, are amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(37) Enter into a memorandum of agreement with the Florida Ports Council which provides a supplemental permitting process for the issuance of a joint coastal permit pursuant to s. 161.055 or environmental resource permit pursuant to part IV of chapter 373, to a port listed in s. 311.09(1), for maintenance dredging and the management of dredged materials from maintenance dredging of all navigation channels, port harbors, turning basins, and harbor berths. Such permit shall be issued for a period of 5 years and shall be annually extended for an additional year if the port is in compliance with all permit conditions at the time of extension.*The department is authorized to adopt rules to implement this subsection.*

(38) Enter into a memorandum of agreement with the Florida Ports Council which provides a supplemental permitting process for the issuance of a conceptual joint coastal permit pursuant to s. 161.055 or environmental resource permit pursuant to part IV of chapter 373, to a port listed in s. 311.09(1), for dredging and the management of materials from dredging and for other related activities necessary for development, including the expansion of navigation channels, port harbors, turning basins, harbor berths, and associated facilities. Such permit shall be issued for a period of up to 15 years.*The department is authorized to adopt rules to implement this subsection.*

(39) Enter into a memorandum of agreement with the Florida Inland Navigation District and the West Coast Inland Navigation District, or their successor agencies, to provide a supplemental process for issuance of joint coastal permits pursuant to s. 161.055 or environmental resource permits pursuant to part IV of chapter 373 for regional waterway management activities, including, but not limited to, maintenance dredging, spoil disposal, public recreation, inlet management, beach nourishment, and environmental protection directly related to public navigation and the construction, maintenance, and operation of Florida's inland waterways. *The department is authorized to adopt rules to implement this subsection.*

And the title is amended as follows:

On page 1, lines 2 through 6
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to pollution control; amending s. 165.061, F.S.; providing for the continuation of existing solid waste contracts; requiring written evidence of the duration of the contract within a specified timeframe; amending s. 403.061, F.S.; providing rule-making authority;

Rep. Harrington moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/HB 9. The vote was:

Session Vote Sequence: 233

Yeas—119

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 421—A bill to be entitled An act relating to mental health; directing the Department of Children and Family Services to develop and implement a pilot project to provide client-directed and choice-based mental health treatment and support services to certain adults; requiring an independent evaluation; providing evaluation criteria; requiring reports; providing an appropriation; providing for expiration; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 234

Yeas—107

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

Nays—None

Votes after roll call:
Yeas—Alexander, Gardiner, Maygarden, Negron, Spratt, Waters

So the bill passed, as amended, and was immediately certified to the Senate.

HB 1607—A bill to be entitled An act relating to insurance; amending s. 631.57, F.S.; specifying assessment liability; amending s. 324.031, F.S.; providing for establishing financial responsibility with respect to damages arising out of the operation of certain vehicles; providing definitions; amending s. 627.351, F.S.; specifying membership of the boards of the Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association; revising criteria for limited apportionment; providing rate standards; specifying duties with respect to pursuit of federal tax exemptions and tax-free bond status; providing premium tax exemption; providing for appropriation of funds for hurricane loss mitigation purposes; providing standards for certain payments to agents of record of Florida Winstorm Underwriting Association and Residential Property and Casualty Joint Underwriting Association policies; amending s. 627.3511, F.S.; revising agent compensation in connection with take-out plans; amending s. 627.7013, F.S.; delaying the repeal date of the moratorium on hurricane-related cancellation or nonrenewal of property insurance policies; amending s. 624.4072, F.S.; increasing a period of exemption from certain taxes and assessments for certain minority businesses; extending a future repeal; amending ss. 624.3161, 626.171, F.S.; directing the department to adopt rules relating to market conduct examinations and license applications; amending s. 626.9541, F.S.; revising provisions relating to unfair competition and deceptive practices; creating s. 626.9651, F.S.; directing the department to adopt rules to govern the use of a consumer's nonpublic personal financial and health information by health insurers and health maintenance organizations; providing standards governing the rules; amending s. 627.062, F.S.; providing for filing forms for rate standards; amending s. 627.0625, F.S.; authorizing the department to adopt rules relating to third-party claimants; amending s. 627.0651, F.S.; prohibiting motor vehicle insurers from imposing a surcharge or a discount due to certain factors; creating s. 627.385, F.S.; providing rules of conduct for residual market board members; creating s. 627.4065, F.S.; providing for notice of right to return health insurance policies; creating s. 627.41345, F.S.; prohibiting an insurer or agent from issuing or signing certain certificates of insurance; providing that the terms of the policy control in case of conflict; amending s. 627.7015, F.S.; defining "claim" for purposes of alternative procedures for resolution of disputed property insurance claims; amending s. 627.7276, F.S.; providing for notice of coverage of automobile policies; creating s. 627.795, F.S.; providing guidelines for title insurance policies; creating 626.9552, F.S.; providing standards for single interest insurance; amending s. 627.918, F.S.; directing the department to adopt rules relating to reporting formats; amending s. 641.3108, F.S.; requiring health maintenance organizations to provide certain information to subscriber groups whose contract is not renewed for certain reasons; requiring certain meetings of the Florida Windstorm Underwriting Association to be open to the public; requiring notice; providing an effective date.

—was read the third time by title.

Representative(s) Kallinger and Gannon offered the following:

(Amendment Bar Code: 970309)

Amendment 2 (with title amendment)—On page 3, line 31, of the bill

insert:

Section 1. Paragraph (w) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(w) Soliciting or accepting new or renewal insurance risks by insolvent or impaired insurer prohibited; penalty.—

1. Whether or not delinquency proceedings as to the insurer have been or are to be initiated, but while such insolvency or impairment exists, no director or officer of an insurer, except with the written permission of the Department of Insurance, shall authorize or permit the insurer to solicit or accept new or renewal insurance risks in this state after such director or officer knew, or reasonably should have known, that the insurer was insolvent or impaired. "Impaired" includes impairment for capital or surplus, as defined in s. 631.011*(12)*~~(9)~~ and *(13)*~~(10)~~.

2. Any such director or officer, upon conviction of a violation of this paragraph, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Section 631.001, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 631.001, F.S., for present text.)

631.001 Construction; purposes.—

(1) The underlying purposes and policies of the provisions of this part, which are integral elements of the regulation of the business of insurance and are of vital public interest and concern, are to:

(a) Protect the interests of insureds, claimants, creditors, and the public.

(b) Provide a comprehensive scheme for the receivership of insurers.

(c) Establish this state as a reciprocal state in those states which, in substance and effect, enact the National Association of Insurance Commissioners Rehabilitation and Liquidation Model Act or the Uniform Insurers Liquidation Act.

(d) Make more efficient the administration of insurer receiverships on an interstate and international basis.

(e) Provide prompt corrective measures for any potentially dangerous condition in an insurer.

(f) Implement improved methods for rehabilitating insurers, which methods involve the cooperation and management expertise of the insurance industry.

(g) Enhance the efficiency and economy of liquidation through clarification and specification of the law to minimize legal uncertainty and litigation.

(h) Lessen the problems of interstate rehabilitation and liquidation of an entity subject to the provisions of this part by facilitating cooperation between states in the liquidation process and by extension of the scope of personal jurisdiction over debtors of the insurer outside this state.

(i) Establish a system which equitably apportions any unavoidable loss.

(j) Maximize recovery of assets for the benefit of the insurer and its policyholders, creditors, and estate.

(2) This part shall be liberally construed to effect the purposes stated in subsection (1) and shall specifically authorize the department in its capacity as administrator, conservator, rehabilitator, receiver, liquidator, or similar capacity to pursue any actions for damages or other recoveries on behalf of the insurer and its policyholders, creditors, and estate.

(3) This part may be cited as the "Insurers Rehabilitation and Liquidation Act."

Section 3. Section 631.011, Florida Statutes, is amended to read:

631.011 Definitions.—For the purpose of this part, the term:

(1) "Affiliate" means any entity which exercises control over or is controlled by the insurer, directly or indirectly through:

(a) Equity ownership of voting securities;

(b) Common managerial control; or

(c) Collusive participation by the management of the insurer and affiliate in the management of the insurer or the affiliate.

(2) "Ancillary state" means, any state other than a domiciliary state.

(3) "Assets," as used in *this section* ~~subsections (8)-(10)~~, means only allowed assets as defined in chapter 625.

(4) "Bona fide holder for value" means a holder who, while not possessing information that would lead a reasonable person in the holder's position to believe that the insurer is financially impaired, and while unaware of the imminence or pendency of any receivership proceeding against the insurer, has, in the exercise of reasonable business judgment, exchanged his or her own funds, assets, or property for funds, assets, or property of the insurer having an equivalent market value.

(5)~~(4)~~ "Court" refers to the circuit court in which the receivership proceeding is pending.

(6)~~(5)~~ "Delinquency proceeding" means any proceeding commenced against an insurer pursuant to this chapter for the purpose of liquidating, rehabilitating, reorganizing, or conserving such insurer.

(7)~~(6)~~ "Domiciliary state" means the state in which an insurer is incorporated or organized or, in the case of an insurer incorporated or organized in a foreign country, the state in which such insurer, having become authorized to do business in such state, has, at the commencement of a delinquency proceeding, the largest amount of its assets held in trust and assets held on deposit for the benefit of its policyholders or policyholders and creditors in the United States; and any such insurer is deemed to be domiciled in such state.

(8) "Fair consideration" means that consideration which is given for property or assets of an insurer when, in exchange for the property or assets and in good faith, property is conveyed, services are rendered, or an enforceable obligation not invalidated by the receivership proceedings is created, having a value to the insurer of not less than the value of the property or assets given in exchange.

(9)~~(7)~~ "Foreign country" means territory not in any state.

(10)~~(8)~~ "General assets" means all property, real, personal, or otherwise, not specifically mortgaged, pledged, deposited, or otherwise encumbered for the security or benefit of specified persons or a limited class or classes of persons, and as to such specifically encumbered property the term includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and assets held on deposit for the security or benefit of all policyholders or all policyholders and creditors in the United States shall be deemed general assets.

(11) "Good faith," as applied to a transferee or transferor under this part, means honesty in fact and intention and includes the exercise of reasonable business judgment, together with the absence of information that would lead a reasonable person in the same position to know that the insurer is financially impaired or insolvent and together with the absence of knowledge regarding the imminence or pendency of any receivership proceeding against the insurer.

(12)~~(9)~~ "Impairment of capital" means that the minimum surplus required to be maintained in s. 624.408 has been dissipated and the insurer is not possessed of assets at least equal to all its liabilities together with its total issued and outstanding capital stock, if a stock insurer, or the minimum surplus or net trust fund required by s. 624.407, if a mutual, reciprocal, or business trust insurer.

(13)~~(10)~~ "Impairment of surplus" means that the surplus of a stock insurer, the additional surplus of a mutual or reciprocal insurer, or the additional net trust fund of a business trust insurer does not comply with the requirements of s. 624.408.

(14)~~(11)~~ "Insolvency" means that all the assets of the insurer, if made immediately available, would not be sufficient to discharge all its liabilities or that the insurer is unable to pay its debts as they become due in the usual course of business. When the context of any provision of this code so indicates, insolvency also includes and is defined as "impairment of surplus," as defined in subsection *(13)*~~(9)~~, and "impairment of capital," as defined in subsection *(12)*~~(8)~~.

(15)~~(12)~~ "Insurer," in addition to persons so defined under s. 624.03, also includes persons purporting to be insurers or organizing, or holding themselves out as organizing, in this state for the purpose of becoming insurers and all insurers who have insureds resident in this state.

(16)~~(13)~~ "Liabilities," as used in subsections *(12) and (14)* ~~(8)-(10)~~, means all liabilities, including those specifically required in s. 625.041.

(17)~~(14)~~ "Person" includes natural persons, corporations, partnerships, trusts, estates, and sole proprietorships.

(18) "Property," with respect to an insolvent entity, includes all right, title, and interest of the insolvent entity whether legal or equitable, tangible or intangible, or choate or inchoate and includes choses in action, contract rights, and any other interest recognized under the laws of this state. When an order of conservation, rehabilitation, or liquidation is entered, the term also includes entitlements that existed prior to the entry of the order and those that may arise by operation of the provisions of this chapter or other provisions of law allowing the department to avoid prior transfers or assert other rights in its capacity as receiver. The term also includes all records and data that are otherwise the property of the insolvent insurer, however stored, including, but not limited to, claims and claim files, application files, litigation files, premium records, rate books, underwriting manuals, personnel records, or financial records, or similar records within the possession, custody, or control of a managing general agent, third-party administrator, management company, accountant, attorney, affiliate, or other person. The term does not include privileged or confidential documents of an insolvent insurer generated by a third party.

(19)~~(15)~~ "Receiver" means a receiver, liquidator, rehabilitator, or conservator, as the context may require.

(20)~~(16)~~ "Reciprocal state" means any state other than this state in which in substance and effect the provisions of the Insurers Rehabilitation and Liquidation Act are in force, including the provisions requiring that the commissioner of insurance or equivalent insurance supervisory official be the receiver of a delinquent insurer.

(21)~~(17)~~ "Secured claim" means any claim secured by mortgage, trust deed, pledge, deposit as security, escrow, or otherwise but does not include a special deposit claim, a claim against general assets, or a claim based on mere possession. The term also includes a claim which more than 4 months before the commencement of a delinquency proceeding in the state of the insurer's domicile has become a lien upon specific assets by reason of judicial process.

(22)~~(18)~~ "Special deposit claim" means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any general assets.

(23)~~(19)~~ "State" is as defined in s. 624.08.

Section 4. Section 631.025, Florida Statutes, is created to read:

631.025 Persons and entities subject to this part.—Delinquency proceedings authorized by this part may be initiated against any insurer as defined in s. 631.011(15) if the statutory grounds are present as to that insurer, and the receivership court may exercise jurisdiction over any person required to cooperate with the department pursuant to s. 631.391 and over all persons made subject to the court's jurisdiction by other provisions of law. Such persons include, but are not limited to:

(1) A person who is transacting or has transacted insurance business in or from this state and against whom claims arising from that business exist or may exist in the future.

(2) A person who purports to transact an insurance business in this state, and any person or entity who acts as an insurer, transacts insurance, or otherwise engages in insurance activities in or from this

state, with or without a certificate of authority or proper authority from the department.

(3) An insurer who has insureds residing in this state.

(4) All other persons organized or in the process of organizing with the intent to transact an insurance business in this state.

Section 5. Paragraph (d) of subsection (1) of section 631.041, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

631.041 Automatic stay; relief from stay; injunctions.—

(1) An application or petition under s. 631.031 operates as a matter of law as an automatic stay applicable to all persons and entities, other than the receiver, which shall be permanent and survive the entry of an order of conservation, rehabilitation, or liquidation, and which shall prohibit:

(d) Any act to create, perfect, or enforce a lien against property of the insurer, except that a secured claim as defined in s. 631.011*(21)*~~(17)~~ may proceed under s. 631.191 after the order of liquidation is entered;

(6) No statute of limitations or defense of laches shall run with respect to any action by or against an insurer between the filing of a petition for conservation, rehabilitation, or liquidation against an insurer and the order granting or denying that petition. If the petition is denied, any action against the insurer that might have been commenced when the petition was filed may be commenced for at least 60 days after the order denying such relief.

Section 6. Section 631.113, Florida Statutes, is created to read:

631.113 Extension of time.—

(1) The running of any unexpired statute of limitations as to any claims brought by the administrator, conservator, rehabilitator, receiver, or liquidator, or an official or agency exercising powers pursuant to this chapter seeking damages or other recoveries on behalf of an insurer, its policyholders, its creditors, or its estate, shall be tolled for a period of 4 years from the entry of an order placing the administrator, conservator, rehabilitator, receiver, liquidator, or similar official or agency over the insurer, provided, if the delinquency proceedings brought pursuant to this chapter against the insurer terminate in less than 4 years, such tolling shall cease at the time when the proceedings are finally concluded, including all appeals therefrom. Further, the right of action does not accrue and the limitations period for any such action does not run during the time when the insurer is controlled by parties acting contrary to the company's interests or when the facts giving rise to such claim are fraudulently concealed from regulatory authorities or from any members of company management. The provisions of chapter 95 shall be construed so as to be consistent with the provisions of this section. The receiver may institute any action or proceeding on behalf of the estate of the insurer while any statute of limitation is tolled pursuant to this section. The tolling shall be in addition to any other applicable tolling provision.

(2) For actions not covered by subsection (1), if any unexpired time period is fixed, by any agreement or in any proceeding, for doing any act for the benefit of the estate, the receiver shall have 180 days, or such longer period as the receivership court may allow for good cause shown, from the entry of the order of rehabilitation or liquidation to perform the act.

Section 7. Present subsections (6) through (9) of section 631.141, Florida Statutes, are renumbered as subsections (7) through (10), respectively, and a new subsection (6) is added to that section to read:

631.141 Conduct of delinquency proceeding; domestic and alien insurers.—

(6) The department as receiver is vested with and may assert all rights belonging to policyholders, creditors, and the estate as well as all rights of the entity or entities in receivership, except to the extent that an individual claim is personal and unique to that claimant and recovery thereon could not inure to the benefit of the estate or to other claimants.

Section 8. Paragraph (d) of subsection (6) of section 631.154, Florida Statutes, is amended to read:

631.154 Funds or other property in the possession of third person.—

(6) Should the receiver be successful in establishing its claim or any part thereof, the receiver shall be entitled to recover judgment for the following:

(d) All costs, investigative and other expenses*, which include the department's in-house staff and staff attorney's expenses, costs, and salaries, expended in* ~~necessary to~~ the recovery of the property or funds, and reasonable attorney's fees.

Section 9. Section 631.156, Florida Statutes, is created to read:

631.156 Investigation by the department.—

(1) Preliminary or incidental to a petition for receivership proceedings, the department may, and if appointed receiver shall, undertake a full investigation to determine the causes and reasons for the insolvency, the discovery and location of assets to be recovered, the recovery of such assets, whether the filing of false statements with the department contributed to the insolvency, and, in conjunction with the department's Division of Insurance Fraud or any other appropriate agency of state or federal government, whether any law of this state, any other state, or the Federal Government relating to the solvency of the insurer has been violated. In the furtherance of such investigation, the department may:

(a) Examine and review any and all documents that are reasonably calculated to disclose or lead to the disclosure of the causes and reasons for the insolvency, the discovery and location of assets to be recovered, the recovery of such assets, the truth or falsity of statements filed with the department, and whether any law of this state, any other state, or the Federal Government has been violated.

(b) Take statements or depositions under oath of any person whose testimony is reasonably calculated to disclose or lead to the disclosure of the causes and reasons for the insolvency, the discovery of and location of assets to be recovered, the recovery of such assets, the truth or falsity of statements filed with the department, and whether any law of this state, any other state, or the Federal Government has been violated.

(c) Request the court having jurisdiction over the receivership proceedings to issue any necessary subpoenas.

(d) Examine and review the books, records, and documents of any affiliate, controlling person, officer, director, manager, trustee, agent, adjuster, employee, or independent contractor of any insurer or affiliate and any other person who possesses any executive authority over, or who exercises or has exercised any control over, any segment of the affairs of the insurer or affiliate, to the extent such examination is reasonably calculated to disclose or lead to the disclosure of the causes and reasons for the insolvency, the discovery and location of assets to be recovered, the recovery of such assets, the truth or falsity of statements filed with the department, and whether any law of this state, any other state, or the Federal Government has been violated.

(2) In its capacity as receiver, the department may provide documents, books and records, other investigative products, work product, and analysis, including copies of any or all of the foregoing items, to the Division of Insurance Fraud or any other appropriate agency of state or federal government. The sharing of information, investigative products, or analysis shall not waive any work product or other privilege that would otherwise apply under common law, chapter 119, or any other law.

(3) The department, as the court's receiver, is granted the discretion to determine what books, records, documents, or testimony would be reasonably calculated to disclose or lead to the disclosure of the causes and reasons for the insolvency, the discovery and location of assets to be recovered, the recovery of the assets, the truth or falsity of statements filed with the department, and whether any law of this state or of the United States has been violated, subject to the court's power to review such determination or appoint a general master to review such determination.

A party asserting that any documents requested by the department under this section are not subject to review, or that any particular testimony may not be obtained, shall present such contention by written motion to the receivership court within 20 days after receipt of the request and shall be fully responsible for the loss of any evidence which occurs after the department first informs said party of its request therefor. The court shall, as expeditiously as possible, determine whether the department has abused its discretion in seeking such evidence or testimony, with the objecting party having the burden of proof. A party who fails to produce the requested evidence or testimony without filing a proper timely objection, or who having unsuccessfully asserted such objection fails thereafter to furnish the evidence or testimony, within the time provided by the court or the department, shall be subject to the contempt powers of the court, in addition to any other applicable penalties which may be provided in the Florida Insurance Code or other law.

Section 10. Section 631.157, Florida Statutes, is created to read:

631.157 Civil action by the receiver.—

(1) Any person who is engaged in the business of insurance or who acts as or is an officer, director, agent, or employee of any person engaged in the business of insurance, or is involved, other than as an insured or beneficiary under a policy of insurance, in a transaction relating to the conduct of affairs of such a business, and who willfully obtains or uses, as defined in s. 812.012(2), any asset or property, including, but not limited to, moneys, funds, premiums, credits, or other property of an insurer, shall be liable to the department as receiver for the use and benefit of an insolvent insurer's estate, creditors, and policyholders, as follows:

(a) If such obtaining or using did not jeopardize the safety and soundness of an insurer and was not a significant cause of such insurer's being placed in conservation, rehabilitation, or liquidation, such person shall be liable only for the full amount of any asset obtained or used, plus prejudgment interest provided by law.

(b) If such obtaining or using jeopardized the safety and soundness of an insurer or was a significant cause of such insurer's being placed in conservation, rehabilitation, or liquidation, such person shall be liable for triple the full amount of any asset obtained or used, plus prejudgment interest provided by law on the original amount.

(2) Any person who is engaged in the business of insurance or who acts as or is an officer, director, agent, or employee of any person engaged in the business of insurance, or is involved, other than as an insured or beneficiary under a policy of insurance, in a transaction relating to the conduct of affairs of such a business, and who, while having actual knowledge or such constructive knowledge as should have been obtained through reasonable inquiry by a person in such position, if such person knowingly misreports, or knowingly makes any false entry of, a material fact in any book, report, or statement of an insurer with the intent to deceive such insurer, including any officer, employee, or agent of such insurer, the department, or any agent or examiner appointed by the department to examine the affairs of such person or of the insurer, concerning the financial condition or solvency of such business, shall be liable to the department as receiver for the use and benefit of an insolvent insurer's estate, creditors, and policyholders, as follows:

(a) If such misreporting did not jeopardize the safety and soundness of an insurer and was not a significant cause of such insurer's being placed in conservation, rehabilitation, or liquidation, such person shall be liable only for the full amount of any asset misreported.

(b) If such misreporting jeopardized the safety and soundness of an insurer or was a significant cause of such insurer's being placed in conservation, rehabilitation, or liquidation, such person shall be liable for triple the full amount of any asset misreported.

(3) If the asset or property that has been obtained or used was reported to the department as being available to the insurer as an admitted asset and such asset is unavailable to the receiver for payment of the obligations of the insurer at the time when a receivership proceeding is instituted, the obtaining or using shall be presumed to have jeopardized the safety and soundness of the insurer and to have been a significant cause of such insurer's being placed in conservation, rehabilitation, or liquidation, with the burden of proof on the defendants to show otherwise.

(4) If the receiver is successful in establishing a claim under this section, the receiver shall be entitled to recover all of its costs, investigative and other expenses, which shall include the department's in-house staff and staff attorney's expenses, costs, and salaries, expended in the prosecution of the action, and reasonable attorney's fees. The receiver shall be exempt from the provisions of s. 57.111.

(5) An action under this section may be brought at any time before the expiration of 4 years after the entry of the initial order of rehabilitation or liquidation under this part but shall be filed before the time the receivership proceeding is closed or dismissed.

Section 11. Paragraph (b) of subsection (1) of section 631.57, Florida Statutes, is amended to read:

631.57 Powers and duties of the association.—

(1) The association shall:

(b) Be deemed the insurer to the extent of its obligation on the covered claims, and, to such extent, shall have all rights, duties, *defenses,* and obligations of the insolvent insurer as if the insurer had not become insolvent. In no event shall the association be liable for any penalties or interest.

Section 12. Section 631.3995, Florida Statutes, is created to read:

631.3995 Closing of estate; Closed Estate Fund Trust Account.—

(1) When all assets justifying the expense of collection and distribution have been marshaled and distributed under this part, the department shall petition the court to terminate the liquidation proceedings and to close the estate. The court may grant such other relief as may be appropriate, including, but not limited to, a full discharge of all liability and responsibility of the liquidator, the reservation of assets for administrative expenses incurred in the closing of the estate, and any other actions the department feels necessary or appropriate for closing the estate.

(2) Any remaining reserved assets that are provided for in subsection (1) and that may not be practicably or economically distributed to claimants shall be deposited into a segregated account to be known as the Closed Estate Fund Trust Account, if created by law. The department may use moneys held in the account for paying the administrative expenses of companies subject to this part that lack sufficient assets to allow the department to perform its duties and obligations under this part. An annual audit of the Closed Estate Fund Trust Account shall be performed regardless of its balance.

(3) The department may petition the court to reopen the proceedings for good cause shown, including the marshaling of additional assets, and the court may enter such other orders as may be deemed appropriate.

Section 13. Subsection (3) of section 631.54, Florida Statutes, is amended to read:

631.54 Definitions.—As used in this part:

(3) "Covered claim" means an unpaid claim, including one of unearned premiums, which arises out of, and is within the coverage, and not in excess of, the applicable limits of an insurance policy to which this part applies, issued by an insurer, if such insurer becomes an insolvent insurer after October 1, 1970, and the claimant or insured is a resident of this state at the time of the insured event or the property from which the claim arises is permanently located in this state. "Covered claim" shall not include any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation, *contribution, indemnification,* ~~recoveries~~ or otherwise. Member insurers shall have no right of subrogation against the insured of any insolvent member.

Section 14. Section 817.2341, Florida Statutes, is created to read:

817.2341 Crimes by or affecting persons engaged in the administration of any insurer or entity organized pursuant to chapter 624 or chapter 641.—

(1)(a) Any person who makes a false entry of a material fact in any book, report, or statement relating to a transaction of an insurer or entity organized pursuant to chapter 624 or chapter 641, intending thereby to deceive any person about the financial condition or solvency of such insurer or entity, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If such false entry of a material fact is made with the intent to deceive any person as to the impairment of capital, as defined in s. 631.011(12), of such insurer or entity or is the significant cause of such insurer or entity being placed in conservation, rehabilitation, or liquidation by a court, the offense is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)(a) Any person who knowingly makes a material false statement or report to the department or any agent of the department, or who knowingly and materially overvalues any property in any document or report prepared to be presented to the department or any agent of the department, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If such material false statement or report or such material overvaluation is made with the intent to deceive any person as to the impairment of capital, as defined in s. 631.011(12), of an insurer or entity organized pursuant to chapter 624 or chapter 641, or is the significant cause of such insurer or entity being placed in conservation, rehabilitation, or liquidation by a court, the offense is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

And the title is amended as follows:

On page 1, line 2,

after the semicolon insert: amending s. 626.9541, F.S.; correcting a cross-reference; amending s. 631.001, F.S.; providing construction and purposes; providing a short title; amending s. 631.011, F.S.; providing additional definitions; creating s. 631.025, F.S.; specifying application to certain persons and entities; amending s. 631.041, F.S.; limiting application of certain time restrictions; correcting a cross-reference; creating s. 631.113, F.S.; providing for tolling certain time limitations in certain actions; amending s. 631.141, F.S.; vesting the Department of Insurance with certain rights as receiver; amending s. 631.154, F.S.; including certain costs and expenses of the department in costs and expenses entitled to be recovered by the receiver under certain circumstances; creating s. 631.156, F.S.; providing for investigations by the department preliminary or incidental to receivership proceedings; providing department powers; authorizing the department to provide certain information in such investigations; granting the department certain discretionary powers; creating s. 631.157, F.S.; imposing liability on certain persons or entities for certain actions; specifying amounts of damages; providing construction; providing costs and expenses entitled to be recovered by the receiver under certain circumstances; providing a time certain for bringing certain actions; amending s. 631.57, F.S.; clarifying that the association has the same legal defenses available to the insolvent insurer; creating s. 631.3995, F.S.; providing procedures and requirements for closing an estate; providing for deposit of certain assets into the Closed Estate Fund Trust Account; providing for uses of such account; providing for reopening certain proceedings; amending s. 631.54, F.S.; revising a definition; creating s. 817.2341, F.S.; providing criminal penalties for certain activities;

Rep. Kallinger moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 1607. The vote was:

Session Vote Sequence: 235

Yeas—118

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

CS/HB 1425—A bill to be entitled An act relating to law enforcement; amending s. 943.031, F.S.; renaming the Florida Violent Crime Council as the Florida Violent Crime and Drug Control Council; revising membership; providing circumstances for additional meetings; prescribing the duties and responsibilities of the Florida Violent Crime and Drug Control Council; providing statutory limits on funding of investigative efforts by the council; authorizing the Victim and Witness Protection Review Committee to conduct meetings by teleconference under certain circumstances; amending s. 943.17, F.S.; conforming a reference; amending s. 943.042, F.S.; renaming the Violent Crime Emergency Account as the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account; revising provisions relating to use of emergency supplemental funds; clarifying limits on disbursement of funds for certain purposes; requiring the Department of Law Enforcement to adopt rules pertaining to certain investigations; requiring reports by recipient agencies; providing circumstances for limitation or termination of funding or return of funds by recipient agencies; amending s. 943.0585, F.S., relating to court-ordered expunction of certain criminal history records; adding sexual offenses that require an offender to register with the state to the list of excluded offenses; amending s. 943.059, F.S., relating to court-ordered sealing of certain criminal history records; adding offenses relating to sexual offenses that require an offender to register with the state to the list of excluded offenses; amending s. 943.325, F.S.; permitting collection of approved biological specimens other than blood for purposes of DNA testing; permitting collection of specimens from certain persons who have never been incarcerated; limiting liability; authorizing use of force to collect specimens under certain circumstances; amending s. 760.40, F.S., to conform to changes made by s. 943.325, F.S.; creating s. 843.167, F.S.; prohibiting the interception of police communications for certain purposes; prohibiting disclosure of police communications; providing presumptions; providing penalties; amending s. 943.053, F.S.; providing clarification of the manner in which the Department of Law Enforcement determines the actual cost of producing criminal history information; creating s. 943.0582, F.S.; providing for prearrest, postarrest, or teen court diversion program expunction under certain circumstances; providing definitions; providing for retroactive effect; amending s. 985.3065, F.S.; providing for postarrest diversion programs;

providing for expunction of certain records pursuant to s. 943.0582, F.S.; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 236

Yeas—120

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

Nays—None

So the bill passed and was immediately certified to the Senate.

CS for SB 938—A bill to be entitled An act relating to credit insurance; amending s. 626.321, F.S.; authorizing the issuance of credit life insurance licenses to lending or financial institutions or creditors and authorizing such licensees to sell credit insurance; deleting certain license requirements for institutions with multiple offices; amending s. 627.679, F.S.; requiring certain disclosures to credit life insurance purchasers regarding the cancellation of such coverage; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 237

Yeas—118

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

Nays—1

Bucher

So the bill passed and was immediately certified to the Senate.

CS/HB 19—A bill to be entitled An act relating to housing; amending s. 420.5092, F.S.; including housing for the homeless in eligible housing under the Florida Affordable Housing Guarantee Program; increasing the maximum amount of revenue bonds that may be issued by the Florida Housing Finance Corporation under said program; amending s. 420.5088, F.S.; revising eligibility requirements for certain loans under the Florida Homeownership Assistance Program; amending s. 420.503, F.S.; revising the definitions of "elderly" and "housing for the elderly" under the Florida Housing Finance Corporation Act; amending s. 760.29, F.S.; providing that a facility or community claiming an exemption from the Fair Housing Act with respect to familial status for housing for older persons shall register with the Florida Commission on Human Relations and affirm compliance with specified requirements; providing for a registration fee; providing for fines; amending s. 760.31, F.S.; providing for rules; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 238

Yeas—118

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

Trovillion	Waters	Wilson	Wishner
Wallace	Wiles		

Nays—None

Votes after roll call:
Yeas—Slosberg, Weissman

So the bill passed, as amended, and was immediately certified to the Senate.

CS/HB 157—A bill to be entitled An act relating to Motor Vehicles; creating s. 860.146, F.S.; defining the terms "fake airbag" and "junk-filled airbag compartment"; prohibiting the sale, purchase, or installation of fake airbags or junk-filled airbag compartments; providing criminal penalties; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 239

Yeas—119

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

CS/HB 257—A bill to be entitled An act relating to road designations; designating "Steven Cranman Boulevard" and "Ethel Beckford Boulevard" in Miami-Dade County; designating "Phicol Williams Boulevard" in Miami-Dade County; directing the Department of Transportation to erect suitable markers; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 240

Yeas—118

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

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 1635—A bill to be entitled An act relating to environmental control; amending s. 369.25, F.S.; granting the Department of Environmental Protection additional enforcement powers for aquatic plant control; amending ss. 403.121, 403.131, 403.727, 403.860, F.S.; revising judicial and administrative remedies for violations of environmental laws; providing for administrative penalties; requiring the Department of Environmental Protection to report to the Legislature; providing for legislative review; amending s. 373.0693, F.S.; providing for membership on the Manasota Basin Board and for the resolution of tie votes; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 241

Yeas—115

The Chair	Bucher	Gottlieb	Lee
Alexander	Bullard	Green	Lerner
Allen	Cantens	Greenstein	Littlefield
Andrews	Carassas	Haridopolos	Lynn
Argenziano	Clarke	Harper	Machek
Arza	Crow	Harrell	Mack
Attkisson	Cusack	Harrington	Mahon
Atwater	Davis	Hart	Mayfield
Ausley	Detert	Henriquez	Maygarden
Baker	Diaz de la Portilla	Heyman	McGriff
Ball	Diaz-Balart	Hogan	Meadows
Barreiro	Dockery	Holloway	Melvin
Baxley	Farkas	Jennings	Miller
Bean	Fasano	Johnson	Needelman
Bendross-Mindingall	Fields	Jordan	Negron
Bennett	Fiorentino	Joyner	Paul
Bense	Flanagan	Justice	Peterman
Benson	Frankel	Kallinger	Pickens
Berfield	Gannon	Kendrick	Prieguez
Betancourt	Garcia	Kilmer	Rich
Bilirakis	Gardiner	Kosmas	Richardson
Brown	Gelber	Kottkamp	Ritter
Brummer	Gibson	Kravitz	Romeo
Brutus	Goodlette	Kyle	Ross

Rubio	Siplin	Spratt	Weissman
Russell	Slosberg	Stansel	Wiles
Ryan	Smith	Trovillion	Wilson
Seiler	Sobel	Wallace	Wishner
Simmons	Sorensen	Waters	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

CS/HB 137—A bill to be entitled An act relating to probate; amending s. 63.172, F.S.; providing for the right of inheritance with respect to adoption; amending s. 409.9101, F.S.; revising language with respect to recovery of payments made on behalf of certain Medicaid-eligible persons; amending s. 655.936, F.S., relating to the opening of a decedent's safe-deposit box; amending s. 731.005, F.S., relating to the Florida Probate Code; amending s. 731.011, F.S.; providing reference to the Florida Probate Rules with respect to the determination of substantive rights under the Florida Probate Code; amending s. 731.104, F.S.; revising language with respect to the verification of documents; amending s. 731.106, F.S., relating to the assets of nondomiciliaries; repealing s. 731.107, F.S., relating to adversary proceedings; amending s. 731.110, F.S.; revising language with respect to proceedings concerning caveat; repealing s. 731.111, F.S., relating to notice to creditors; amending s. 731.201, F.S.; revising general definitions with respect to the Florida Probate Code; amending s. 731.301, F.S.; revising language with respect to notice; amending s. 731.303, F.S., relating to representation; amending s. 732.101, F.S., relating to intestate estates; amending s. 732.102, F.S.; revising language with respect to the share of the spouse; increasing the monetary amount of certain shares; amending s. 732.103, F.S., relating to the share of certain heirs; amending s. 732.107, F.S.; clarifying provisions; revising a filing date; revising certain provisions regarding owner's representation; amending s. 732.1101, F.S.; providing that aliens shall have the same right of inheritance as citizens; amending s. 732.2025, F.S.; redefining the term "qualifying special needs trust" or "supplemental needs trust"; amending s. 732.2035, F.S.; redefining the term "decedent's ownership interest"; amending s. 732.2045, F.S.; adding an exclusion to the elective share for property that is part of the protected homestead; amending s. 732.2055, F.S.; redefining "value" for purposes of calculating the elective estate; amending s. 732.2075, F.S.; revising the formula for payment of the elective share; amending s. 732.2085, F.S.; adding a cross reference; amending s. 732.2095, F.S.; correcting a cross reference; modifying the formula for determining the fair market value of assets regarding the elective share; amending s. 732.2105, F.S.; revising the effect of an elective share election on other estate interests; amending s. 732.2125, F.S.; revising language with respect to the right of election; amending s. 732.2135, F.S.; revising language with respect to time of election, extensions, and withdrawal; amending s. 732.2145, F.S.; revising language with respect to the order of contribution; amending s. 732.2155, F.S.; revising language with respect to the effective date of certain trusts; amending s. 732.218, F.S.; revising language with respect to rebuttable presumptions; amending s. 732.219, F.S., relating to disposition upon death; amending s. 732.221, F.S.; revising language with respect to perfection of title of personal representative or beneficiary; amending s. 732.222, F.S., relating to the purchaser for value or lender; amending s. 732.223, F.S.; revising language with respect to perfection of title of surviving spouse; amending s. 732.302, F.S.; revising language with respect to pretermitted children; amending s. 732.401, F.S.; revising language with respect to descent of homestead; amending s. 732.4015, F.S.; revising language with respect to the definition of "owner" and "devise" concerning homestead; amending s. 732.402, F.S.; revising language with respect to exempt property; amending s. 732.403, F.S.; revising language with respect to family allowance; amending s. 732.501, F.S.; revising language with respect to who may make a will; amending s. 732.502, F.S.; revising language with respect to execution of wills; amending s. 732.503, F.S.; revising language with respect to self-proof of will; amending s. 732.505, F.S.; revising language with respect to revocation by writing; amending s. 732.507, F.S.; revising language with respect to effect of subsequent marriage, birth, or dissolution of marriage; amending s. 732.513, F.S.; revising language with respect to devises to trustees; amending s. 732.514, F.S., relating to vesting of devises; amending s. 732.515, F.S.; revising language with respect to separate writing identifying devises of tangible property; amending s. 732.6005, F.S., relating to rules of construction and intention; amending s. 732.601, F.S.; revising language with respect to the Simultaneous Death Law; amending s. 732.603, F.S.; revising language with respect to antilapse, deceased devises, and class gifts; amending s. 732.604, F.S., relating to the failure of a testamentary provision; amending s. 732.605, F.S., relating to change in securities, accessions, and nonademption; amending s. 732.606, F.S., relating to nonademption of specific devises in certain cases; amending s. 732.701, F.S.; providing for agreements concerning succession executed by a nonresident under certain circumstances; amending s. 732.702, F.S.; revising language with respect to waiver of spousal rights; amending s. 732.801, F.S.; revising language with respect to disclaimer of interests in property passing by will or intestate succession or under certain powers of appointment; amending s. 732.804, F.S.; providing for provisions relating to disposition of the body; amending s. 732.901, F.S., relating to production of wills; eliminating language with respect to willful failure to deposit the will; transferring, amending, and renumbering ss. 732.910, 732.911, 732.912, 732.913, 732.914, 732.915, 732.916, 732.917, 732.918, 732.9185, 732.919, 732.921, 732.9215, 732.92155, 732.9216, and 732.922, F.S.; correcting cross references; amending ss. 381.004 and 381.0041, F.S.; correcting cross references; amending s. 733.101, F.S., relating to the venue of probate proceedings; amending s. 733.103, F.S., relating to the effect of probate; amending s. 733.104, F.S.; revising language with respect to the suspension of the statute of limitations in favor of the personal representative; amending s. 733.105, F.S.; revising language with respect to the determination of beneficiaries; amending s. 733.106, F.S.; revising language with respect to costs and attorney fees; amending s. 733.107, F.S., relating to the burden of proof in contests; amending s. 733.109, F.S.; revising language with respect to the revocation of probate; amending s. 733.201, F.S., relating to proof of wills; amending s. 733.202, F.S.; providing that any interested person may petition for administration; repealing s. 733.203, F.S., relating to when notice is required; amending s. 733.204, F.S.; revising language with respect to the probate of a will written in a foreign language; amending s. 733.205, F.S., relating to the probate of a notarial will; amending s. 733.206, F.S., relating to the probate of a resident after foreign probate; amending s. 733.207, F.S.; revising requirements with respect to the establishment and probate of a lost or destroyed will; amending s. 733.208, F.S.; revising language with respect to the discovery of a later will; amending s. 733.209, F.S.; providing requirements with respect to the estates of missing persons; amending s. 733.212, F.S.; revising language with respect to the notice of administration and filing of objections; creating s. 733.2121, F.S.; providing for notice to creditors and the filing of claims; amending s. 733.2123, F.S., relating to adjudication before issuance of letters; amending s. 733.213, F.S.; providing that a will may not be construed until after it has been admitted to probate; amending s. 733.301, F.S.; revising language with respect to preference in the appointment of the personal representative; amending s. 733.302, F.S.; revising language with respect to who may be appointed personal representative; amending s. 733.305, F.S., relating to trust companies and other corporations and associations; amending s. 733.306, F.S.; revising language with respect to the effect of the appointment of a debtor; amending s. 733.307, F.S., relating to succession of administration; amending s. 733.308, F.S., relating to the administrator ad litem; amending s. 733.309, F.S., relating to the executor de son tort; creating s. 733.310, F.S.; providing for when a personal representative is not qualified; repealing s. 733.401, F.S., relating to the issuance of letters; amending s. 733.402, F.S.; revising language with respect to the bond of a fiduciary; amending s. 733.403, F.S.; revising language with respect to the amount of the bond; amending s. 733.404, F.S., relating to the liability of the surety; amending s. 733.405, F.S.; revising language with respect to the release of surety; amending s. 733.406, F.S.; revising language with respect to bond premium allowable as an expense of administration; amending s. 733.501, F.S.; revising language with respect to curators; amending s. 733.502, F.S.; revising language with respect to the resignation of the personal representative; amending s. 733.503, F.S.; providing for the appointment of a successor upon the resignation of the personal representative; creating s. 733.5035, F.S.;

providing for the surrender of assets after resignation; creating s. 733.5036, F.S.; providing for accounting and discharge following resignation; amending s. 733.504, F.S.; revising language with respect to the removal of the personal representative; amending s. 733.505, F.S.; providing that a petition for removal shall be filed in the court having jurisdiction of the administration; amending s. 733.506, F.S.; revising language with respect to proceedings for removal; creating s. 733.5061, F.S.; providing for the appointment of a successor upon removal of the personal representative; repealing s. 733.507, F.S., relating to administration following resignation or removal; amending s. 733.508, F.S.; providing for accounting and discharge upon removal; amending s. 733.509, F.S.; revising language with respect to surrender of assets upon removal; amending s. 733.601, F.S.; revising language with respect to time of accrual of duties and powers; amending s. 733.602, F.S., relating to the general duties of a personal representative; amending s. 733.603, F.S., relating to when a personal representative may proceed without court order; amending s. 733.604, F.S.; revising language with respect to inventory; repealing s. 733.605, F.S., relating to appraisers; creating s. 733.6065, F.S.; providing for the opening of a safe-deposit box; amending s. 733.607, F.S.; revising language with respect to the possession of the estate; amending s. 733.608, F.S.; revising language with respect to the general power of the personal representative; amending s. 733.609, F.S.; revising language with respect to improper exercise of power and the breech of fiduciary duty; amending s. 733.610, F.S., relating to the sale, encumbrance, or transaction involving a conflict of interest; amending s. 733.611, F.S.; revising language with respect to persons dealing with the personal representative; amending s. 733.612, F.S.; revising language with respect to transactions authorized for the personal representatives and exceptions thereto; amending s. 733.6121, F.S., relating to powers of the personal representative with respect to environmental or human health laws affecting property subject to administration; amending s. 733.613, F.S.; revising language with respect to the personal representatives' right to sell real property; amending s. 733.614, F.S., relating to the powers and duties of a successor personal representative; amending s. 733.615, F.S.; revising language with respect to joint personal representatives; amending s. 733.616, F.S.; revising language with respect to the powers of the surviving personal representatives; amending s. 733.617, F.S.; revising language with respect to compensation of the personal representative; amending s. 733.6171, F.S.; revising language with respect to compensation of the attorney for the personal representative; amending s. 733.6175, F.S.; revising language with respect to proceedings for review of employment of agents and compensation of personal representatives and employees of the estate; amending s. 733.619, F.S., relating to the individual liability of the personal representative; amending s. 733.701, F.S.; revising language with respect to notifying creditors; correcting cross references; amending s. 733.702, F.S.; revising language with respect to limitations on presentation of claims; amending s. 733.703, F.S.; revising language with respect to the form and manner of presenting a claim; amending s. 733.704, F.S., relating to amendment of claims; amending s. 733.705, F.S.; revising language with respect to payment of and objection to claims; amending s. 733.707, F.S.; revising language with respect to the order of payment of expenses and obligations; amending s. 733.708, F.S.; revising language with respect to compromise; amending s. 733.710, F.S., relating to claims against estates; amending s. 733.801, F.S.; providing that the personal representative shall pay as an expense of administration certain costs; amending s. 733.802, F.S.; revising language with respect to proceedings for compulsory payment of devises or distributive interest; amending s. 733.803, F.S., relating to encumbered property; amending s. 733.805, F.S.; revising language with respect to the order in which assets are appropriated; amending s. 733.806, F.S., relating to advancement; amending s. 733.808, F.S.; revising language with respect to death benefits and disposition of proceeds; amending s. 733.809, F.S., relating to right of retainer; amending s. 733.810, F.S.; revising language with respect to distribution in kind and valuation; amending s. 733.811, F.S.; revising language with respect to the right or title of distributee; amending s. 733.812, F.S.; providing for improper distribution or payment and liability of distributee; amending s. 733.813, F.S., relating to protection of the purchaser from the distributee; amending s. 733.814, F.S.; revising language with respect to partition for the purpose of distribution; amending s. 733.815, F.S.; providing for private contracts among certain interested persons; amending s. 733.816, F.S., relating to the distribution of unclaimed property held by the personal representative; amending s. 733.817, F.S.; revising language with respect to apportionment of estate taxes; amending s. 733.901, F.S.; providing requirements with respect to final discharge; amending s. 733.903, F.S.; revising language with respect to subsequent administration; amending s. 734.101, F.S., relating to the foreign personal representative; amending s. 734.102, F.S.; revising language with respect to ancillary administration; amending s. 734.1025, F.S.; revising language with respect to the nonresident decedent's testate estate with property not exceeding a certain value in this state; providing for the determination of claims; amending s. 734.104, F.S., relating to foreign wills; amending s. 734.201, F.S., relating to jurisdiction by act of a foreign personal representative; amending s. 734.202, F.S., relating to jurisdiction by act of decedent; repealing s. 735.101, F.S., relating to family administration and the nature of the proceedings; repealing s. 735.103, F.S., relating to petition for family administration; repealing s. 735.107, F.S., relating to family administration distribution; amending s. 735.201, F.S.; increasing a monetary amount with respect to summary administration; amending s. 735.203, F.S.; revising language with respect to the petition for summary administration; amending s. 735.206, F.S.; revising language with respect to summary administration distribution; amending s. 735.2063, F.S.; revising language with respect to notice to creditors; repealing s. 735.209, F.S., relating to joinder of heirs, devisees, or surviving spouse in summary administration; amending s. 735.301, F.S., relating to disposition without administration; amending s. 735.302, F.S.; revising language with respect to income tax refunds in certain circumstances; creating s. 737.208, F.S.; prohibiting distribution pending outcome of contest; providing exceptions; amending s. 737.3054, F.S.; revising language with respect to trustee's duty to pay expenses and obligations of grantor's estate; amending s. 737.306, F.S.; revising language with respect to personal liability of trustee; creating s. 737.3061, F.S.; providing for limitation on actions against certain trusts; amending s. 737.308, F.S.; revising language with respect to notice of trust; amending ss. 215.965, 660.46, and 737.111, F.S.; correcting cross references; directing the Division of Statutory Revision and Indexing to change the title of certain parts of the Probate Code; providing an effective date.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 720117)

Technical Amendment 3—On page 3, line 4, after the semicolon,

insert: providing for applicability of certain provisions under specified circumstances;

And on page 37, line 9, through page 46, line 11,
remove from the bill: all of said lines

And on page 55, lines 13 through 15,
remove from the bill: all of said lines

and insert: of section 732.2155, Florida Statutes, is amended, and subsection (6) is added to said section, to read:

And on page 55, line 28
remove from the bill: "*(a) the*"

and insert: *(a) The*
And on page 56, line 1, remove "*(b) the*"

and insert: *(b) The*
And on page 56, line 4, remove "*(c) the*"

and insert: *(c) The*

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

The question recurred on the passage of CS/HB 137. The vote was:

Session Vote Sequence: 242

Yeas—117

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

Nays—None

Votes after roll call:
Yeas—Melvin

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

Reconsideration of HB 1607

On motion by Rep. Bennett, the House reconsidered the vote by which **HB 1607**, as amended, passed earlier today.

HB 1607—A bill to be entitled An act relating to insurance; amending s. 631.57, F.S.; specifying assessment liability; amending s. 324.031, F.S.; providing for establishing financial responsibility with respect to damages arising out of the operation of certain vehicles; providing definitions; amending s. 627.351, F.S.; specifying membership of the boards of the Florida Windstorm Underwriting Association and the Residential Property and Casualty Joint Underwriting Association; revising criteria for limited apportionment; providing rate standards; specifying duties with respect to pursuit of federal tax exemptions and tax-free bond status; providing premium tax exemption; providing for appropriation of funds for hurricane loss mitigation purposes; providing standards for certain payments to agents of record of Florida Winstorm Underwriting Association and Residential Property and Casualty Joint Underwriting Association policies; amending s. 627.3511, F.S.; revising agent compensation in connection with take-out plans; amending s. 627.7013, F.S.; delaying the repeal date of the moratorium on hurricane-related cancellation or nonrenewal of property insurance policies; amending s. 624.4072, F.S.; increasing a period of exemption from certain taxes and assessments for certain minority businesses; extending a future repeal; amending ss. 624.3161, 626.171, F.S.; directing the department to adopt rules relating to market conduct examinations and license applications; amending s. 626.9541, F.S.; revising provisions relating to unfair competition and deceptive practices; creating s. 626.9651, F.S.; directing the department to adopt rules to govern the use of a consumer's nonpublic personal financial and health information by health insurers and health maintenance organizations; providing standards governing the rules; amending s. 627.062, F.S.; providing for filing forms for rate standards; amending s. 627.0625, F.S.; authorizing the department to adopt rules relating to third-party claimants; amending s. 627.0651, F.S.; prohibiting motor vehicle insurers from imposing a surcharge or a discount due to certain factors; creating s. 627.385, F.S.; providing rules of conduct for residual market board members; creating s. 627.4065, F.S.; providing for notice of right to return health insurance policies; creating s. 627.41345, F.S.; prohibiting an insurer or agent from issuing or signing certain certificates of insurance; providing that the terms of the policy control in case of conflict; amending s. 627.7015, F.S.; defining "claim" for purposes of alternative procedures for resolution of disputed property insurance claims; amending s. 627.7276, F.S.; providing for notice of coverage of automobile policies; creating s. 627.795, F.S.; providing guidelines for title insurance policies; creating 626.9552, F.S.; providing standards for single interest insurance; amending s. 627.918, F.S.; directing the department to adopt rules relating to reporting formats; amending s. 641.3108, F.S.; requiring health maintenance organizations to provide certain information to subscriber groups whose contract is not renewed for certain reasons; requiring certain meetings of the Florida Windstorm Underwriting Association to be open to the public; requiring notice; providing an effective date.

The question recurred on the passage of HB 1607.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 402243)

Technical Amendment 3—On page 3, line 14
remove from the bill: all of said line

and insert: providing effective dates.
on page 7, line 23,
remove: "*expeses*"

and insert in lieu thereof: *expenses*
on page 19, line 2,
remove: "*assistanceprogram*"

and insert: *assistance program*
on page 29, line 19, and on page 31, line 26,
remove: "*cmmission*"

and insert: *commission*
on page 29, line 25, and on page 32, line 1,
remove: "*ssociation's*"

and insert: *association's*
on page 30, line 4, and on page 32, line 10,
remove: "*isnurer*"

and insert: *insurer*
on page 32, line 22,
remove: "*gent*"

and insert: *agent*
and on page 59, line 10,
remove: all of said line

and insert: Except as otherwise provided herein, this act shall take effect upon becoming a

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

The question recurred on the passage of HB 1607. The vote was:

Session Vote Sequence: 243

Yeas—117

The Chair	Arza	Ball	Bennett
Alexander	Attkisson	Barreiro	Bense
Allen	Atwater	Baxley	Benson
Andrews	Ausley	Bean	Berfield
Argenziano	Baker	Bendross-Mindingall	Betancourt

Bilirakis	Garcia	Kottkamp	Ritter
Bowen	Gelber	Kravitz	Romeo
Brown	Gibson	Kyle	Ross
Brummer	Goodlette	Lacasa	Rubio
Brutus	Gottlieb	Lee	Russell
Bucher	Green	Lerner	Ryan
Bullard	Greenstein	Littlefield	Seiler
Byrd	Haridopolos	Lynn	Simmons
Cantens	Harper	Machek	Siplin
Carassas	Harrell	Mack	Slosberg
Clarke	Harrington	Mayfield	Smith
Crow	Hart	Maygarden	Sobel
Cusack	Henriquez	McGriff	Sorensen
Davis	Heyman	Meadows	Spratt
Detert	Hogan	Mealor	Stansel
Diaz de la Portilla	Holloway	Melvin	Trovillion
Diaz-Balart	Jennings	Miller	Wallace
Dockery	Johnson	Murman	Waters
Farkas	Jordan	Needelman	Weissman
Fasano	Joyner	Negron	Wiles
Fields	Justice	Peterman	Wilson
Fiorentino	Kallinger	Pickens	Wishner
Flanagan	Kendrick	Prieguez	
Frankel	Kilmer	Rich	
Gannon	Kosmas	Richardson	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Byrd, the House moved to the consideration of CS/HB 589 on Bills and Joint Resolutions on Third Reading.

CS/HB 589—A bill to be entitled An act relating to local government utilities assistance; providing a short title; providing legislative findings; providing definitions; establishing a pilot Local Government Utilities Assistance Program; providing for administration by the Department of Environmental Protection; providing for criteria for acquiring certain private water-wastewater utilities; providing for transfer of certain moneys from the Solid Waste Management Trust Fund to the program; providing for distribution of such moneys for certain purposes; providing for financial assistance for certain purposes under certain circumstances; requiring the Department of Environmental Protection to submit a report on the pilot program to the Governor and Legislature; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 244

Yeas—120

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

Nays—None

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Byrd, the House moved to the consideration of CS/HBs 715 & 1355 on Bills and Joint Resolutions on Third Reading.

Consideration of **CS/HBs 715 & 1355** was temporarily postponed under Rule 11.10.

On motion by Rep. Byrd, the House moved to the consideration of CS for SB 1274 on Bills and Joint Resolutions on Third Reading.

CS for SB 1274—A bill to be entitled An act relating to motor vehicles; amending s. 322.09, F.S.; providing that a foster parent or a group-home representative who signs an application for a learner's driver's license for a minor who is in foster care is not, by reason of having signed the application, assuming any obligation or liability for any damages caused by the minor; creating s. 627.746, F.S.; prohibiting insurers that issue insurance policies for private passenger automobiles from charging an additional premium for a minor who operates his or her parent's vehicle, during the time that the minor has a learner's driver's license; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 245

Yeas—118

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

Wallace	Weissman	Wilson	Wishner
Waters	Wiles		

Nays—None

So the bill passed and was immediately certified to the Senate.

Rep. Goodlette suggested the absence of a quorum. A quorum was present [Session Vote Sequence: 246].

On motion by Rep. Byrd, the House moved to the consideration of HB 505 on Bills and Joint Resolutions on Third Reading.

Consideration of **HB 505** was temporarily postponed under Rule 11.10.

On motion by Rep. Byrd, the House moved to the consideration of HB 1039 on Bills and Joint Resolutions on Third Reading.

HB 1039—A bill to be entitled An act relating to ad valorem tax exemption; amending s. 196.24, F.S.; increasing the amount of the exemption provided under s. 3(b), Art. VII of the State Constitution for certain disabled ex-service members; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 247

Yeas—118

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

Nays—None

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Byrd, the House moved to the consideration of CS/HB 979 on Bills and Joint Resolutions on Third Reading.

CS/HB 979—A bill to be entitled An act relating to Okaloosa County; creating and establishing an independent special district in said county to be known as the North Okaloosa Fire District; creating a charter; describing the district; prescribing its powers; providing for a board of fire commissioners; providing for compensation; requiring a bond; providing for terms of office and for filling vacancies in office; providing for meetings, minutes of meetings, and public access; providing for financial matters; authorizing non-ad valorem assessments; authorizing the district to accept gifts and donations; providing the district's fiscal year; providing for collection of taxes; providing limits and guidelines for indebtedness of the district; prescribing authorized uses of district funds; providing a penalty; ratifying actions previously taken; requiring certain notice of legal action; providing for a district expansion and merger; providing severability; providing for a referendum; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 248

Yeas—120

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

Nays—None

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Byrd, the House moved to the consideration of CS for SB 224 on Bills and Joint Resolutions on Third Reading.

CS for SB 224—A bill to be entitled An act relating to medically essential electric public utility service; creating s. 366.15, F.S.; defining the term "medically essential"; requiring electric public utilities to provide medically essential service under specified circumstances; providing procedures for certification of medically essential utility service; authorizing utilities to disconnect service under certain circumstances; providing for notice to customers; providing for payment for service; providing for monitoring of customers; providing responsibilities for customers; providing for the identification of sources for funding purposes; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 249

Yeas—119

The Chair	Arza	Ball	Bennett
Alexander	Attkisson	Barreiro	Bense
Allen	Atwater	Baxley	Benson
Andrews	Ausley	Bean	Berfield
Argenziano	Baker	Bendross-Mindingall	Betancourt

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

Nays—None

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Byrd, the House moved to the consideration of CS/HBs 715 & 1355 on Bills and Joint Resolutions on Third Reading.

CS/HBs 715 & 1355 was taken up. On motion by Rep. Lerner, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1306, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Health, Aging and Long-Term Care and Senators Sanderson and Miller—

CS for SB 1306—A bill to be entitled An act relating to Medicaid assistance for breast and cervical cancer treatment; creating the Mary Brogan Breast and Cervical Cancer Early Detection Program Act; amending s. 409.904, F.S.; authorizing Medicaid reimbursement for medical assistance provided to certain persons for treatment of breast or cervical cancer; requiring the Department of Health and the Agency for Health Care Administration to monitor expenditures under the act; requiring that certain services be limited if expenditures are projected to exceed appropriations; requiring the Department of Health to submit an annual report to the Legislature and the Governor; providing an effective date.

—was taken up, read the first time by title, and substituted for CS/HBs 715 & 1355. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Lerner, the rules were waived and CS for SB 1306 was read the second time by title and the third time by title. On passage, the vote was:

Session Vote Sequence: 250

Yeas—119

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

Nays—None

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Byrd, the House moved to the consideration of HB 947 on Bills and Joint Resolutions on Third Reading.

Continuation of Bills and Joint Resolutions on Third Reading

HB 947—A bill to be entitled An act relating to medical malpractice presuit investigations; amending s. 766.104, F.S.; authorizing the release of certain records relating to medical care and treatment of a decedent upon the request of certain persons; providing exemption from liability and discipline for health care practitioners complying in good faith; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 251

Yeas—117

The Chair	Brummer	Gardiner	Kendrick
Alexander	Brutus	Gelber	Kilmer
Allen	Bucher	Gibson	Kosmas
Andrews	Bullard	Goodlette	Kottkamp
Argenziano	Byrd	Gottlieb	Kravitz
Attkisson	Cantens	Green	Kyle
Atwater	Carassas	Greenstein	Lacasa
Ausley	Clarke	Haridopolos	Lee
Baker	Crow	Harper	Lerner
Ball	Cusack	Harrell	Littlefield
Barreiro	Davis	Harrington	Lynn
Baxley	Detert	Hart	Machek
Bean	Diaz de la Portilla	Henriquez	Mack
Bendross-Mindingall	Diaz-Balart	Heyman	Mahon
Bennett	Dockery	Hogan	Mayfield
Bense	Farkas	Holloway	Maygarden
Benson	Fasano	Jennings	McGriff
Berfield	Fields	Johnson	Meadows
Betancourt	Fiorentino	Jordan	Mealor
Bilirakis	Frankel	Joyner	Melvin
Bowen	Gannon	Justice	Miller
Brown	Garcia	Kallinger	Murman

Needelman	Ritter	Siplin	Waters
Negron	Romeo	Slosberg	Weissman
Paul	Ross	Smith	Wiles
Peterman	Rubio	Sobel	Wilson
Pickens	Russell	Spratt	Wishner
Prieguez	Ryan	Stansel	
Rich	Seiler	Trovillion	
Richardson	Simmons	Wallace	

Nays—1

Arza

Votes after roll call:
Nays to Yeas—Arza

So the bill passed, as amended, and was immediately certified to the Senate.

On motion by Rep. Byrd, the House moved to the consideration of HB 505 on Bills and Joint Resolutions on Third Reading.

HB 505 was taken up. On motion by Rep. Cusack, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed SB 698 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By Senator Campbell—

SB 698—A bill to be entitled An act relating to the statute of limitations for prosecuting certain sexual offenses; amending s. 775.15, F.S.; revising the date on which the applicable statute of limitations begins for certain sexual offenses committed against a minor; providing an effective date.

—was taken up, read the first time by title, and substituted for HB 505. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Cusack, the rules were waived and SB 698 was read the second time by title and the third time by title. On passage, the vote was:

Session Vote Sequence: 252

Yeas—119

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

Nays—None

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Byrd, the House moved to the consideration of HB 1215 on Bills and Joint Resolutions on Third Reading.

Continuation of Bills and Joint Resolutions on Third Reading

HB 1215—A bill to be entitled An act relating to a corporate income tax credit to promote new product development; providing a short title; creating s. 288.907, F.S.; providing definitions; providing for licensing of certain products or technologies by donor companies to receiving companies for production and marketing; providing duties of such companies and of Enterprise Florida, Inc.; providing requirements for product development agreements; creating s. 220.115, F.S.; requiring receiving companies to file a corporate tax return and remit to the state certain fees in addition to any corporate income tax due; providing for application of administrative and penalty provisions of ch. 220, F.S.; creating s. 220.1825, F.S.; providing for a credit against the corporate income tax for donor companies; providing for determination of the amount of the credit by Enterprise Florida, Inc., and notification to the Department of Revenue; providing for carryover of the credit; amending s. 220.02, F.S.; providing order of credits against the tax; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 253

Yeas—117

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

Reconsideration of HB 1943

On motion by Rep. Ball, the House agreed to reconsider the vote by which **HB 1943**, as amended, failed to pass earlier today.

The vote was:

Session Vote Sequence: 254

Yeas—71

The Chair	Brummer	Haridopolos	Mealor
Alexander	Byrd	Harrell	Melvin
Allen	Cantens	Harrington	Miller
Andrews	Carassas	Hart	Murman
Argenziano	Clarke	Hogan	Needelman
Arza	Detert	Johnson	Negron
Attkisson	Diaz de la Portilla	Jordan	Paul
Atwater	Diaz-Balart	Kallinger	Prieguez
Baker	Dockery	Kilmer	Ross
Ball	Farkas	Kottkamp	Rubio
Barreiro	Fasano	Kyle	Russell
Baxley	Fiorentino	Lacasa	Simmons
Bennett	Flanagan	Littlefield	Sorensen
Bense	Garcia	Lynn	Spratt
Benson	Gardiner	Mack	Trovillion
Berfield	Gibson	Mahon	Wallace
Bowen	Goodlette	Mayfield	Waters
Brown	Green	Maygarden	

Nays—45

Ausley	Gottlieb	Lee	Siplin
Bendross-Mindingall	Greenstein	Lerner	Slosberg
Betancourt	Harper	Machek	Smith
Brutus	Henriquez	McGriff	Sobel
Bucher	Heyman	Meadows	Stansel
Bullard	Holloway	Peterman	Weissman
Cusack	Jennings	Rich	Wiles
Davis	Joyner	Richardson	Wilson
Fields	Justice	Ritter	Wishner
Frankel	Kendrick	Romeo	
Gannon	Kosmas	Ryan	
Gelber	Kravitz	Seiler	

HB 1943—A bill to be entitled An act relating to the deduction and collection of a bargaining agent's dues and uniform assessments; amending s. 447.303, F.S.; eliminating a right of certain bargaining agents to have certain dues and assessments deducted and collected by an employer from certain employees; providing legislative findings and intent; providing that the deduction and collection of certain dues and assessments is a proper subject of collective bargaining; providing requirements and limitations; providing for accounting of funds; providing for enforcement; providing an effective date.

The question recurred on the passage of HB 1943.

Rep. Frankel suggested the absence of a quorum. A quorum was present [Session Vote Sequence: 255].

The question recurred on the passage of HB 1943. The vote was:

Session Vote Sequence: 256

Yeas—65

The Chair	Ball	Brummer	Fiorentino
Alexander	Baxley	Byrd	Flanagan
Allen	Bean	Cantens	Garcia
Andrews	Bennett	Clarke	Gardiner
Argenziano	Bense	Detert	Gibson
Arza	Benson	Diaz de la Portilla	Goodlette
Attkisson	Berfield	Dockery	Green
Atwater	Bowen	Farkas	Haridopolos
Baker	Brown	Fasano	Harrell
Harrington	Littlefield	Murman	Simmons
Hart	Lynn	Needelman	Spratt
Johnson	Mack	Negron	Trovillion
Kallinger	Mayfield	Paul	Wallace
Kilmer	Maygarden	Prieguez	Waters
Kottkamp	Mealor	Ross	
Kyle	Melvin	Rubio	
Lacasa	Miller	Russell	

Nays—49

Ausley	Gottlieb	Lee	Siplin
Barreiro	Greenstein	Lerner	Slosberg
Bendross-Mindingall	Harper	Machek	Smith
Betancourt	Henriquez	Mahon	Sobel
Brutus	Heyman	McGriff	Sorensen
Bucher	Holloway	Meadows	Stansel
Bullard	Jennings	Peterman	Weissman
Carassas	Jordan	Rich	Wiles
Cusack	Joyner	Richardson	Wilson
Davis	Justice	Ritter	Wishner
Fields	Kendrick	Romeo	
Frankel	Kosmas	Ryan	
Gelber	Kravitz	Seiler	

Votes after roll call:
Nays—Hogan

So the bill passed, as amended, and was immediately certified to the Senate.

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed HBs 47, 385, 695, and 1935.

Faye W. Blanton, Secretary

The above bills were ordered enrolled.

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has refused to concur in House Amendment 1 to CS for SB 1118 and appointed a conference committee to work out the differences between the two houses.

The President has appointed the following Senators to the Conference Committee: Senator Posey, Chairman; Senators Smith, Carlton and Sebesta.

Faye W. Blanton, Secretary

Motion to Adjourn

Rep. Byrd moved that the House adjourn for the purpose of holding committee and council meetings and conducting other House business, to reconvene at 10:30 a.m., Tuesday, May 1. The motion was agreed to.

Recorded Votes

Rep. Brutus:

Yeas—Amendment 2 to HB 159

Rep. Crow:

Nays—motion to read CS/CS/HB 1533 the second time in full after reconsideration

Rep. Diaz-Balart:

Nays—HB 1943

Rep. Gelber:

Nays—motion to temporarily postpone further consideration of CS/HB 1189

Prime Sponsors

HB 649—Cantens, Kilmer, Needelman
HB 1089—Argenziano, Rubio
CS/HB 1361—Bowen

Withdrawals as Prime Sponsor

CS/HB 1819—Heyman

Cosponsors

CS/HB 3—Haridopolos
CS/HB 147—Haridopolos
CS/HJR 295—Haridopolos
HB 313—Cantens
HB 421—Kallinger
CS/CS/HB 453—Haridopolos
HB 733—Kendrick
HB 1039—Brummer
HB 1089—Green, Littlefield
HB 1091—Holloway
CS/CS/HB 1193—Harrell
CS/HB 1375—Kallinger
HB 1465—Sobel

Introduction and Reference

By Representative Wiles—

HR 9083—A resolution recognizing the week of November 11-17, 2001, as "Florida Storytelling Week."

First reading by publication (Art. III, s. 7, Florida Constitution).

Communications

The Governor advised that he had filed in the Office of the Secretary of State CS/CS/HB 107, which he approved on April 30.

Excused

Rep. Allen until 1:58 p.m.

Conference Committee Managers Excused

The following Conference Committee Managers were excused from time to time:

CS/SB 1118 (elections): Rep. Byrd, Chair; Reps. Goodlette, Rubio, and Smith.

SBs 2000 and 2002 (appropriations): Rep. Lacasa, Chair; At Large—Reps. Fasano, Greenstein, Murman, Wallace, Wilson, and Sobel (alternate); Transportation & Economic Development Appropriations—Rep. Johnson, Chair, Reps. Bense, Hart, Jennings, Ritter, Rubio, Berfield (alternate), and Hogan (alternate); Health & Human Services Appropriations—Rep. Maygarden, Chair, Reps. Brummer, Farkas, Green, Rich, Slosberg, Benson (alternate), Brutus (alternate), and Garcia (alternate); Education Appropriations—Rep. Lynn, Chair, Reps. Alexander, Flanagan, Justice, Melvin, Stansel, Arza (alternate), Bucher (alternate), and Mealor (alternate); Criminal Justice Appropriations—Rep. Ball, Chair, Reps. Barreiro, Bilirakis, Mahon, Meadows, Seiler, and Bowen (alternate); General Government Appropriations—Rep. Dockery, Chair, Reps. Holloway, Kilmer, Miller, Siplin, Spratt, and Brown (alternate).

Adjourned

Pursuant to the motion previously agreed to, the House adjourned at 6:19 p.m., to reconvene at 10:30 a.m., Tuesday, May 1.

The Journal OF THE House of Representatives

Number 21 **Tuesday, May 1, 2001**

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

Prayer

The following prayer was offered by the Reverend Father David L. Toups of St. Frances Cabrini Catholic Church of Spring Hill, upon invitation of Rep. Russell:

Loving God, Creator of the Universe, we give You thanks and praise for the gift of our world, the gift of our natural resources, for the beauty of our state of Florida. We give You thanks for the most important gift You give us, the gift of life. We pray that each of us may always respect that gift, from conception to natural death; the life of the elderly, the handicapped, the homeless. Lord God, I ask You to bless our brothers and sisters here in this House. We pray that they may work together for the good of our state, the good of our world. We pray for peace and harmony during this session as they are on their homestretch. We pray for strength, for courage, for endurance. Fill us, Lord God, with Your joy, Your peace. May each of us receive Your blessing this day. We ask this in Your Holy Name. Amen.

The following Members were recorded present:

Session Vote Sequence: 257

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

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

A quorum was present.

Pledge

The Members, led by Matthew Barnette of Brooksville, Sarah Block of Tequesta, John T. Kennedy of Stuart, Lindsay M. Loe of Lake Mary, and Terry Paul McGowan of Lithia, pledged allegiance to the Flag. Matthew Barnette served at the invitation of Rep. Argenziano. Sarah Block served at the invitation of Rep. Bucher. John T. Kennedy served at the invitation of Rep. Negron. Lindsay M. Loe served at the invitation of Rep. Mealor. Terry Paul McGowan served at the invitation of Speaker Feeney.

Correction of the *Journal*

The *Journal* of April 30 was corrected and approved as corrected.

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed SB 2308; passed CS for SB 444, as amended; passed CS for CS for SB 668; passed CS for SB 302, as amended; passed CS for SB 840 and CS for SB 1012; passed SB 1162; CS for CS for SB 1282; and CS for SB 322, as amended; passed CS for SB 2034; passed CS for SB 890, as amended; passed CS for SB 1366; SB 1324; and CS for CS for SB 1672; passed CS for SB 2118 and CS for CS for SB 2092, as amended; passed CS for SB 1850 by the required Constitutional three-fifths vote of the members of the Senate; passed CS for SB 1852, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By Senator Cowin—

SB 2308—A bill to be entitled An act relating to the South Lake County Hospital District, Lake County; providing for codification of special laws relating to the South Lake County Hospital District; providing legislative intent; amending, codifying, reenacting, and repealing chapters 69-1201, 70-771, 75-415, 88-466, 95-456, Laws of Florida; providing district boundaries; providing definitions; providing for a board of trustees as the governing body of the district; prescribing the powers and duties of the board; providing for compensation and meetings of the board; providing a principal office of the district; authorizing the board to levy an annual al valorem tax upon taxable property within the district; providing for purpose of the tax; providing

for a method for such levy; exempting property of the district for assessment; prohibiting the board from transferring control of the district's hospitals or facilities except upon approval by referendum; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

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

By the Committee on Criminal Justice and Senator Latvala—

CS for SB 444—A bill to be entitled An act relating to offenses against children; amending s. 787.025, F.S.; revising provisions to prohibit certain previously convicted offenders from intentionally luring or enticing, or attempting to lure or entice, a child under age 15 into a structure, dwelling, or conveyance without consent of parent or legal guardian, or from intentionally luring or enticing, or attempting to lure or entice the child away from the child's parent or legal guardian; providing penalties; amending s. 800.04, F.S.; defining the term "presence" for purposes of lewd or lascivious offenses committed in the presence of certain minors; amending s. 24 of ch. 200-237, Laws of Florida; revising an effective date; providing an effective date.

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

By the Committees on Finance and Taxation, Commerce and Economic Opportunities and Senator Carlton—

CS for CS for SB 668—A bill to be entitled An act relating to enterprise zones; creating s. 290.00695, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone within an area of Hernando County or of Hernando County and the City of Brooksville jointly; creating s. 290.00696, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in Holmes County; providing requirements with respect thereto; creating s. 290.00697, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in Calhoun County; providing requirements with respect thereto; creating s. 290.00698, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in Okaloosa County; providing requirements with respect thereto; creating s. 290.00694, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in Sarasota County; providing requirements with respect thereto; providing for designation of a specified area within Hillsborough County as an enterprise zone; amending s. 290.00555, F.S.; removing the December 31, 1999, deadline for creation of satellite enterprise zones by certain municipalities and authorizing creation of such zones effective retroactively to that date; providing duties of the Office of Tourism, Trade, and Economic Development; providing an application deadline for businesses in such zones eligible for certain sales and use tax incentives; authorizing a boundary change in a specified enterprise zone; amending s. 290.0065, F.S.; providing for the change in the boundaries of an enterprise zone under specified conditions; providing an effective date.

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

By the Committee on Appropriations and Senators Pruitt and Horne—

CS for SB 302—A bill to be entitled An act relating to financing for private not-for-profit institutions of higher education; creating the "Higher Educational Facilities Financing Act"; providing legislative findings and declarations; providing definitions; creating the Higher Educational Facilities Financing Authority; providing for membership of the authority; providing for its powers; providing criteria for and covenants relating to the authorization of the issuance of notes and revenue bonds not obligating the full faith and credit of the authority, any municipality, the state, or any political subdivision thereof; providing for loans from revenue bonds to participating institutions; providing for the validation of revenue bonds; providing for trust funds and remedies of bondholders; providing for a tax exemption; providing for agreement of the state; providing other powers and authorities incident thereto; requiring reports and audits; providing for construction; amending s. 196.012, F.S.; providing that institutions funded by the Higher Educational Facilities Financing Act are educational institutions for purposes of state taxation; providing an effective date.

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

By the Committee on Health, Aging and Long-Term Care and Senator Saunders—

CS for SB 840—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; providing an exemption from public records requirements for identifying information and specified financial information in records relating to an individual's health or eligibility for health-related services made or received by the Department of Health or its service providers; specifying conditions under which such information may be released; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

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

By the Committee on Governmental Oversight and Productivity and Senator Garcia—

CS for SB 1012—A bill to be entitled An act relating to guaranteed energy performance savings contracting; amending s. 489.145, F.S.; changing provisions relating to energy efficiency contracting to provisions relating to guaranteed energy performance savings contracting; providing a short title; providing legislative intent; revising definitions, procedures, and contract provisions; providing criteria, requirements, procedures, and limitations for energy performance contracts; providing for program administration and contract review by the Department of Management Services and the Office of the Comptroller; providing an effective date.

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

By Senator Sebesta—

SB 1162—A bill to be entitled An act relating to the Florida Prepaid College Program; amending s. 240.551, F.S.; revising the accreditation requirements for independent college or university eligibility purposes; clarifying that the amount of benefits transferred to an eligible independent college or university, an eligible out-of-state college or university, an applied technology diploma program or vocational certificate program, or refunded to a purchaser shall not exceed the redemption value of the advance payment contract at a state postsecondary institution; authorizing the purchase of advance payment contracts for scholarships by nonprofit organizations; providing for the appointment of additional members as directors of the direct-support organization; providing an effective date.

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

By the Committees on Commerce and Economic Opportunities, Criminal Justice and Senators Burt and Horne—

CS for CS for SB 1282—A bill to be entitled An act relating to property crimes; amending s. 812.012, F.S.; providing a definition of cargo; amending s. 812.014, F.S.; providing second-degree felony penalties for theft of certain emergency medical equipment and theft of certain cargo; providing a penalty for subsequent convictions for stealing cargo; amending s. 812.015, F.S.; revising certain definitions; authorizing a merchant or merchant's employee to provide a business address for purposes of any investigation with respect to the offense of retail theft; providing a felony penalty for unlawfully possessing antishoplifting or inventory control device countermeasures; providing a third-degree felony penalty for certain commission of retail theft; providing a second-degree felony penalty for second or subsequent

violations of such retail theft; creating s. 812.0155, F.S.; authorizing a court to suspend the driver's license of certain persons under certain circumstances; requiring a court to suspend the driver's license of such persons for second or subsequent offenses; providing for increased periods of suspension for second or subsequent adjudications; providing requirements of court for revoking, suspending, or withholding issuance of the driver's license of certain persons; providing construction; creating s. 812.017, F.S.; providing misdemeanor penalties for the use of a fraudulently obtained or false receipt to request a refund or obtain merchandise; creating s. 812.0195, F.S.; providing criminal penalties for dealing in stolen property by use of the Internet; creating s. 817.625, F.S.; providing definitions; providing a felony penalty for using a scanning device to access, read, obtain, memorize, or store information encoded on a payment card without the permission of, and with intent to defraud, the authorized user of the payment card, issuer of the payment card, or merchant; providing a felony penalty for using a reencoder to place information onto a payment card without the permission of, and with intent to defraud, the authorized user of the payment card; providing an enhanced penalty for a second or subsequent violation of the act; subjecting certain violations to the Florida Contraband Forfeiture Act; amending ss. 831.07, 831.08, 831.09, F.S.; prohibiting forging a check or draft or possessing or passing a forged check or draft; providing penalties; reenacting s. 831.10, F.S., relating to second conviction of uttering forged bills, to incorporate a reference; amending s. 831.11, F.S.; prohibiting bringing a forged or counterfeit check or draft into the state; providing a penalty; amending s. 831.12, F.S.; providing that connecting together checks or drafts to produce an additional check or draft constitutes the offense of forgery; creating s. 831.28, F.S.; providing a definition; making unlawful the counterfeiting of payment instruments with intent to defraud or possessing counterfeit payment instruments; providing a felony penalty; specifying acts that constitute prima facie evidence of intent to defraud; authorizing a law enforcement agency to produce or display a counterfeit payment instrument for training purposes; amending s. 832.05, F.S.; providing that prior passing of a worthless check or draft is not notice to the payee of insufficient funds to ensure payment of a subsequent check or draft; amending s. 921.0022, F.S.; conforming provisions of the Offense Severity Ranking Chart of the Criminal Punishment Code to changes made by the act; encouraging local law enforcement agencies to establish a task force on retail crime; providing direction on the composition, operation, and termination of such a task force; providing severability; providing an effective date.

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

By the Committee on Criminal Justice and Senator Geller—

CS for SB 322—A bill to be entitled An act relating to the disposition of offenders; amending s. 944.1905, F.S.; requiring that certain inmates who are less than a specified age be placed in specific correctional facilities and housed in separate dormitories; requiring that the Department of Corrections report to the Legislature on its compliance with housing youthful offenders; requiring that certain inmates who are less than a specified age and who have no prior juvenile adjudication be placed in facilities for youthful offenders; providing for the reassignment of an inmate to the general population if the inmate threatens the safety of other inmates or correctional staff; amending s. 921.0021, F.S.; redefining the term "prior record" to extend the time during which the disposition of certain juvenile offenses are included in an offender's record; providing an effective date.

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

By the Committee on Commerce and Economic Opportunities and Senator Latvala—

CS for SB 2034—A bill to be entitled An act relating to rural electric cooperatives; amending s. 425.09, F.S.; authorizing cooperative bylaws to permit voting by limited proxy for certain purposes and under certain circumstances; providing criteria and limitations; prohibiting voting by general proxy; providing procedures and requirements for appointing limited proxies; providing an effective date.

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

By the Committee on Banking and Insurance and Senator Campbell—

CS for SB 890—A bill to be entitled An act relating to mortgages; amending s. 697.07, F.S.; providing that rents in the control of a mortgagor are subject to assignment of rents; correcting provisions relating to assignment of rents; providing for expedited procedure under certain conditions; providing that a hearing and an adjudication that requested attorney's fees are reasonable are not necessary under certain conditions; providing that attorney's fees when provided in a note or mortgage constitute liquidated damages; amending s. 702.10, F.S.; specifying information to be included in an order to show cause why a final judgment of foreclosure should not be entered; providing that a hearing on attorney's fees is unnecessary under certain circumstances; requiring the court to enter a final judgment of foreclosure under certain circumstances; providing that the petitioner or petitioner's attorney is responsible for placing the legal advertisement, publication, or notice of a foreclosure proceeding; providing an effective date.

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

By the Committee on Finance and Taxation and Senator Cowin—

CS for SB 1366—A bill to be entitled An act relating to tax exemption; amending s. 196.202, F.S.; defining the term "totally and permanently disabled person"; providing an effective date.

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

By Senator Peaden and others—

SB 1324—A bill to be entitled An act relating to health care; creating s. 456.41, F.S.; authorizing provision of and access to complementary or alternative health care treatments; requiring patients to be provided with certain information regarding such treatments; requiring the keeping of certain records; providing effect on the practice acts; amending s. 381.026, F.S.; revising the Florida Patient's Bill of Rights and Responsibilities to include the right to access any mode of treatment the patient or the patient's health care practitioner believes is in the patient's best interests; providing an effective date.

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

By the Committees on Appropriations, Commerce and Economic Opportunities and Senator Lee and others—

CS for CS for SB 1672—A bill to be entitled An act relating to welfare transition; providing a short title; providing legislative intent; authorizing the Passport to Economic Progress demonstration program in specified areas; requiring Workforce Florida, Inc., and the Department of Children and Family Services to pursue federal-government waivers as necessary; increasing the amount of income that may be disregarded in determining eligibility for temporary cash assistance for families residing in the demonstration areas; authorizing an extended period of time for the receipt of welfare-transition benefits by families residing in the demonstration areas; providing legislative findings; directing Workforce Florida, Inc., to create a transitional wage supplementation program; authorizing wage supplementation payments to certain individuals; requiring an evaluation and reports on the demonstration program; providing for conflicts of laws; providing appropriations; providing an effective date.

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

By the Committee on Comprehensive Planning, Local and Military Affairs and Senator Crist—

CS for SB 2118—A bill to be entitled An act relating to educational facilities; amending s. 847.001, F.S.; adding and revising definitions;

creating s. 847.0134, F.S.; prohibiting the location of adult entertainment establishments within a specified distance of a school; providing a criminal penalty; providing an exception; providing an effective date.

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

By the Committees on Appropriations, Health, Aging and Long-Term Care and Senator Sanderson—

CS for CS for SB 2092—A bill to be entitled An act relating to health care; amending s. 154.306, F.S.; providing procedures for computing the maximum amount that specified counties must pay for the treatment of an indigent resident of the county at a hospital located outside the county; providing for the exclusion of active-duty military personnel and certain institutionalized county residents from state population estimates when calculating a county's financial responsibility for such hospital care; requiring the county of residence to accept the hospital's documentation of financial eligibility and county residence; requiring that the documentation meet specified criteria; amending s. 381.0403, F.S.; transferring the community hospital education program from the Board of Regents to the Department of Health; prescribing membership of a committee reporting on graduate medical education; amending s. 409.908, F.S.; revising provisions relating to the reimbursement of Medicaid providers to conform to the transfer of the Community Hospital Education Program from the Board of Regents to the Department of Health; providing for the certification of local matching funds; providing requirements for the distribution of federal funds earned as a result of local matching funds; requiring an impact statement; providing rulemaking authority to the Department of Health; amending s. 409.911, F.S.; redefining the term "charity care" or "uncompensated charity care" for purposes of the disproportionate share program; amending s. 409.9117, F.S.; revising eligibility criteria for payments under the primary care disproportionate share program; amending s. 409.912, F.S.; extending the duration of certain demonstration projects to test Medicaid direct contracting; providing legislative findings and intent; amending s. 456.057, 395.3025, 400.1415, F.S.; prohibiting the use of a patient's medical records for purposes of solicitation and marketing without specific written release or authorization; providing for criminal penalties; creating s. 626.9651, F.S.; requiring the Department of Insurance to adopt rules governing the use of a consumer's nonpublic personal financial and health information; providing standards for the rules; providing an effective date.

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

By the Committee on Finance and Taxation and Senator Burt—

CS for SB 1850—A bill to be entitled An act relating to trust funds; creating the Department of Revenue Clerks of the Court Trust Fund; providing for sources of funds and purposes; providing for future review and termination or re-creation of the trust fund; providing a contingent effective date.

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

By the Committee on Finance and Taxation and Senator Burt—

CS for SB 1852—A bill to be entitled An act relating to state revenues collected by clerks of the court; creating s. 213.13, F.S.; providing for electronic remittance to the Department of Revenue; providing for remittance by the Department of Revenue to various trust funds and agencies; providing for remittance of all moneys collected by the clerks of the court for the state to the Department of Revenue; amending ss. 27.52, 28.101, 28.2401, 28.241, 34.041, 44.108, 316.192, 318.18, 318.21, 327.73, 372.7015, 372.72, 382.023, 741.01, 775.0835, 938.01, 938.03, 938.04, 938.06, 938.07, 938.25, 938.27, 960.17, 318.14, 327.35, 382.022, 569.11, 938.23, F.S.; providing for remittance of funds to the Department of Revenue and deposit in the designated trust fund; repealing outdated language; providing an effective date.

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

Reports of Councils and Standing Committees

Report of the Procedural & Redistricting Council

The Honorable Tom Feeney April 30, 2001
Speaker, House of Representatives

Dear Mr. Speaker:

Pursuant to Special Rule 01-11, your Procedural & Redistricting Council herewith submits as a Third Reading Calendar for Tuesday, May 1, 2001. Consideration of the House Bills on the Third Reading Calendar shall include the Senate Companion Measures on the House Calendar.

I. Consideration of the following bill(s):
HB 559—Peterman
Pinellas Co. School Board
CS/HB 795—Justice
Relief/Alfred Roberts/St. Petersburg
HB 821—Arza
Relief/Oscar Ortiz/City of Miami
HB 853—Carassas
Pinellas Co./Tourist Dev. Council
HB 863—Ritter
North Springs Improvement District
HB 867—Romeo
Hillsborough Co./Tourist Development
HB 873—Frankel
West Palm Beach/Police Pension
HB 891—Wiles
Daytona Beach/Submerged Lands/Lease
HB 917—Bucher
Palm Beach Co./Building Code
HB 941—Jordan
Jacksonville/Civil Service Status
HB 1125—Sorensen
Monroe Co./Water Quality Standards
HB 1785—Haridopolos
Brevard Co./City of Satellite Beach
HB 251—Kilmer
Sales Tax Exemption/Clothing
CS/HB 1253—Farkas
Limited Benefit Policies/Contracts
CS/HB 1889—Utilities & Telecommunications (RIC)
Taxation/Communications Services
CS/HB 1891—Utilities & Telecommunications (RIC)
Public Records/Communications Tax
CS/HB 1893—Utilities & Telecommunications (RIC)
Local Communications Services Tax TF
HB 1919—General Government Appropriations (FRC)
Technology Enterprise Trust Fund/DMS
CS/HB 293—Crow
Certified Capital Company Act
CS/HB 949—Attkisson
Local Water or Wastewater Utilities
CS/CS/HB 1509—Diaz-Balart
Student Financial Assistance
CS/HB 1927—Insurance (CCC)
Workers' Compensation
HB 1111—Allen
Spaceport Infrastructure Act
HB 1519—Berfield
Clearinghouse on Disability Info.
CS/HB 175—Machek
Aggressive Careless Driving
CS/HB 203—Ryan
Child Pornography
CS/SB 888—Campbell
Probation or Community Control

CS/CS/SB 1214—Peaden
Foster Care/Residential Group Care
HB 1265—Dockery
Fla. Mobile Home Relocation TF
HB 477—Hogan
Public Records/Parents ID/Newborns
HB 1937—Procedural & Redistricting Council
State Revenue Collection/Court Clerk
HB 1939—Procedural & Redistricting Council
Dept. of Revenue Clerks of Court TF
HB 1431—Byrd
Passport to Economic Progress Act
HB 1865—Judicial Oversight (SGC)
Judiciary/Number Increases
HB 1223—Cantens
Building Construction Task Force
CS/SB 836—Crist
Health Insurers & HMOs
HB 1777—Murman
Schools/Adult Entertainment Location
HB 1067—Kyle
Physician Records/Adverse Incidents
CS/HB 789—Mealor
Governmental Data Processing
CS/HB 1805—Insurance (CCC)
Public Records/Motor Vehicle Crashes
HB 579—Crow
Uniform Commercial Code
CS/HB 1189—Diaz-Balart
Brownfield Redevelopment Incentives
CS/HB 1385—Joyner
Public Meetings & Public Records
HB 1197—Berfield
Legislative Oversight
HB 1429—Byrd
Cardiac Arrest Survival Act
HB 1055—Needelman
Workers' Comp./Law Enforcement
HJR 1451—Negron
Ad Val Exemption/Personal Property
HB 1225—Pickens
Economic Development
SB 428—Dyer
Building Construction
CS/HB 199—Trovillion
Substance Abuse Treatment Programs
CS/HB 73—Wallace
Fla. Customer Service Standards Act
HB 1983—Fiscal Policy & Resources (FRC)
Ad Valorem Tax Administration
SB 226—Dawson
Sexual Violence/Jails & Prisons
HB 1091—Wishner
Fla. Golf License Plate
HB 25—Crow
Offenses Against Children
CS/HB 83—Russell
Enterprise Zone Designations
CS/HB 93—Harrington
Road & Bridge Designations
HB 159—Rubio
HMO/Physicians/Adverse Determination
CS/HB 161—Argenziano
Citrus/Hernando Waterways Council
HB 163—Prieguez
Tax/Collegiate Facility Renovation
CS/CS/HB 179—Lynn
Child Care Facilities
CS/CS/HB 267—Kravitz
School Attendance/Violent Offenders
CS/HB 281—Alexander
Higher Educational Facilities
CS/HB 337—Garcia
Public Libraries
CS/HB 345—Johnson
Sports Industry Economic Development
CS/HB 365—Hogan
Public Records/Health/Financial Info
CS/CS/HB 411—Kyle
Florida Mobile Home Act
CS/CS/HB 453—Prieguez
Energy Performance Savings
CS/HB 455—Detert
Mortgage Brokers & Lenders
HB 457—Lee
Property & Casualty Insurers
CS/HB 463—Baxley
Florida Prepaid College Program
HB 465—Baker
Tuition/Residency/National Guard
CS/HB 475—Hogan
Public Health
HB 509—Attkisson
Relief/Hopkins & Bowman
HB 531—Gardiner
Property Crimes
HB 575—Baker
Filing Fees/Corporate Fee
CS/HB 605—Gibson
Florida Alzheimer's Training Act
CS/CS/HB 617—Harper
Youthful Offenders
CS/HB 623—Mack
Government Accountability
HB 625—Bean
Security for Public Deposits
HB 635—Hart
Drivers' Licenses/Selective Service
HB 645—Henriquez
Alcoholic Beverages/Nonprofit Orgs.
HB 649—Bilirakis
Law Enforcement Officers' Disability
CS/HB 699—Goodlette
Rural Electric Cooperatives
HB 701—Bean
Correctional Officers Memorial Hwy.
CS/HB 717—Stansel
Assessment of Agricultural Property
CS/CS/HB 719—Stansel
Agri. Products/Damage or Destruction
CS/CS/HB 721—Stansel
Public Records/Agricultural Records
CS/HB 729—Argenziano
Environmental Control
HB 731—Kottkamp
Public Records/Local Government/WMD
HB 749—Dockery
Absentee Ballots
HB 757—Barreiro
Wrecker Liens
CS/HB 793—Hogan
Elderly Persons & Disabled Adults
CS/CS/HB 807—Gardiner
Hwy. Safety/Motor Vehicles/Vessels
HB 953—Crime Prevention, Corrections & Safety (HCC)
Burglary
HB 959—Gottlieb
Mortgages
CS/HB 973—Davis
Property Tax/Disabled/Physicians
CS/HB 997—Littlefield
Spinal Cord Injuries/Pilot Program

CS/CS/HB 1053—Russell
Transportation
HB 1077—Mack
Health Care/Alternative Treatment
CS/CS/HB 1121—Byrd
Driver Licenses/Co. Tax Collectors
CS/HB 1131—Barreiro
Criminal Rehabilitation
CS/HB 1133—Brutus
Correctional Work Programs/Operation
CS/HB 1219—Brown
Insurance Agents
HB 1221—Cantens
Water Resources
CS/HB 1263—Dockery
Mining
CS/HB 1361—Arza
Charter Schools
HB 1379—Flanagan
Emergency Telephone System
HB 1395—Crime Prevention, Corrections & Safety (HCC)
Driver Lic. Div./Exclusionary Rule
HB 1415—Kallinger
Medicaid/Environmental Modification
HB 1439—Berfield
Health Insurance
HB 1471—Alexander
Food Service Employee Training
HB 1485—Kravitz
Sexual Offenders Release Supervision
HB 1491—Attkisson
Wastewater Residual Reduction Act
HB 1513—Simmons
Insurance Competitions/Compensations
CS/HB 1529—Simmons
Controlled Substances
CS/CS/HB 1533—Lynn
Education Governance Reorganization
(Special Rule 01-14)
CS/HB 1541—Economic Development & International Trade (CCC)
Public Records/Economic Development
HB 1545—Education Appropriations (FRC)
Schools/Performance Reporting
HB 1585—Detert
Public Records/Abandoned Property
HB 1611—Arza
Relief/Mary Beth Wiggers/DOC
HB 1669—Paul
Harris Chain of Lakes Restoration
HB 1681—Miller
Pest Control Operators
CS/HB 1701—Smith
Public Records/Code Enforc. Officers
HB 1705—Crime Prevention, Corrections & Safety (HCC)
Death Sentence/Age Requirement
HB 1787—Berfield
Warranty Associations/Motor Vehicles
HB 1799—Child & Family Security (HCC)
Children's Behavioral Crisis Unit
CS/HB 1819—Insurance (CCC)
Insurance/Public Records Illegal Use
HB 1861—Elder & Long-Term Care (HCC)
Quality of Long-Term Care Facility
HB 1863—Health Regulation (HCC)
Onsite Sewage Treatment & Disposal
HB 1867—Health Regulation (HCC)
Health Care Practitioner Regulation
HB 1881—Elder & Long-Term Care (HCC)
Public Records/Nursing Homes
HB 1885—Health Promotion (HCC)
Health Care
HB 1915—Agriculture & Consumer Affairs (CCC)
Agric. & Consumer Services Dept.
HB 1931—Fiscal Responsibility Council
State-Administered Retirement
HB 1961—Fiscal Policy & Resources (FRC)
Sales Tax/State Tax Policy
HB 1971—Natural Resources & Environmental Protection (RIC)
Water Supply Policy
HB 1973—Fiscal Policy & Resources (FRC)
State Debt
HB 1977—Fiscal Responsibility Council
State Planning & Budgeting
CS/SB 94—Laurent
Consumer Collection Practices
CS/CS/SB 108—Geller
Structured Settlements/Transfers
SB 130—Silver
Eminent Domain/Public School Purpose
SB 150—Horne
Property Exempt from Legal Process
CS/SB 178—Brown-Waite
Duration of Real Property Liens
CS/SB 202—Lee
Malt Beverages/Container Size
CS/SB 232—Brown-Waite
Controlled Substances/Hydrocodone
CS/SB 252—King
Law Officer/Background Investigation
SB 272—Klein
Law Enforcement Officers
SB 338—Campbell
Bryant Peney Act
CS/SB 350—Dawson
Individual Development Accounts
CS/CS/SB 400—Horne
Support of Dependents
CS/CS/CS/SB 446—Constantine
Homelessness
SB 654—Saunders
Pharmacists/Licensure by Endorsement
SB 676—Smith
Prison Releasee Reoffender
CS/SB 684—Cowin
Organ Transplantation
SB 708—Sullivan
Educ. Employees/Unused Sick Leave
SB 720—Carlton
Criminal Records/Obscene Materials
SB 766—Sanderson
Driver's Licenses/DUI Convictions
SB 782—Sanderson
Nursing Education
CS/SB 800—Silver
Disposition of Traffic Fines
CS/SB 806—Laurent
Insurance Examination/Exemptions
SB 810—Laurent
Municipal Law Enforcement Officers
CS/SB 838—Saunders
Landlord & Tenant
CS/CS/SB 870—Webster
Construction/Prompt Payment Act
CS/SB 972—Bronson
Water Mgmt. District Fiscal Matters
CS/SB 1018—Pruitt
Young Children/Learning Gateway
SB 1126—Latvala
Nonprofit Civic Organization/Alcohol

CS/CS/SB 1180—Pruitt
Scholarships/Students/Disabilities
SB 1200—Brown-Waite
Nursing Homes/Public Records
CS/SB 1226—Holzendorf
Workforce Development
CS/CS/SB 1258—Mitchell
Behavioral Health Services
SB 1400—Posey
Swimming Pool/Spa Service Contractor
SB 1424—Posey
Real Estate Professionals
SB 1516—Constantine
Surety Bonds
CS/SB 1524—Constantine
Comprehensive Everglades Restoration
CS/CS/CS/SB 1526 & 314—Constantine
Money Transmitter's Code
CS/SB 1788—Wasserman Schultz
Dentistry
SB 1986—Sanderson
Public Employees/Volunteers/Ins.
CS/HB 1617 & 1487—Dockery
Growth Management

II. Special Order:
CS/SB 354—Miller
Civil Rights/Complaints
CS/SB 1260—King
Financial Institutions
SB 304—Pruitt
Deferred Compensation Programs
CS/CS/SB 158—Brown-Waite
Enterprise Zones
CS/SB 208—Geller
Consumer Protection
CS/SB 240—Smith
Sentencing
CS/CS/SB 248—Saunders
Domestic Violence
CS/SB 424—Jones
Retired Judges or Justices
SB 532—Posey
Outcome-Based Total Accountability
SB 536—Bronson
Demineralization Concentrate
SB 648—Garcia
Alcoholic Bev./Students/Curriculum
SB 666—Sullivan
Physician Assistants
SB 672—Mitchell
Indigent Hospital Patients
CS/SB 780—Dawson
Parental Consent/Medical Treatment
CS/SB 788—Silver
Unfair Discrimination/Insurance
CS/SB 828—Dyer
Public-Sector Employee/Health Safety
CS/CS/SB 912—Villalobos
Criminal Rehabilitation
CS/SB 992—Carlton
Dental Service Claim Denials
SB 1066—Peaden
Civil Actions/Statements
CS/SB 1190—Sullivan
Higher Education
SB 1198—Webster
Crimes/Using Two-way Communications
CS/SB 1210—Latvala
Health Insurance
SB 1212—Webster
Special Assessments/Mobile Home Park
SB 1412—Posey
Child Safety Booster Seat Act
SB 1644—Smith
Schools/Teachers & Administrators
SB 1840—Clary
David Levitt School Anti-Hunger Act
CS/SB 2042—Bronson
Pest Control Operators
SB 2104—Crist
Hiring or Leasing Personal Property
SCR 2106—Peaden
Dr. Ed Haskell Legislative Clinic
CS/SB 2110—Silver
Medicaid Services

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

Respectfully submitted,
Johnnie B. Byrd, Jr.
Chair

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

On motion by Rep. Byrd, the rules were waived and the House moved to the order of—

Bills and Joint Resolutions on Third Reading

HB 559—A bill to be entitled An act relating to the Pinellas County School District; providing for a seven-member district school board, with four members elected from single-member districts and three members elected from the county at large, notwithstanding the provisions of s. 230.061, s. 230.10, or s. 230.105, F.S.; providing for implementation at specified elections; providing that school board members shall continue to be elected on a nonpartisan basis and shall be elected in conjunction with the first primary and general election; providing qualifying and other applicable election procedures; providing for future reapportionment of the single-member districts; providing for a referendum; providing effective dates.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 258

Yeas—106

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

Wallace	Weissman	Wilson	Wishner
Waters	Wiles		

Nays—None

So the bill passed and was immediately certified to the Senate.

CS/HB 795—A bill to be entitled An act relating to the City of St. Petersburg; providing for the relief of Alfred Brinkley Roberts; authorizing and directing the City of St. Petersburg to compensate him for injuries suffered due to the negligence of an employee of the city; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 259

Yeas—113

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

Nays—None

Votes after roll call:
Yeas—Kottkamp, Littlefield

So the bill passed and was immediately certified to the Senate.

HB 821—A bill to be entitled An act relating to the City of Miami; providing for the relief of Oscar Ortiz; providing for an appropriation to compensate Oscar Ortiz for injuries and damages sustained as a result of the negligence of the City of Miami; providing for reversion of funds; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 260

Yeas—112

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

Nays—3

Betancourt	Brummer	Rubio

Votes after roll call:
Nays to Yeas—Betancourt

So the bill passed, as amended, and was immediately certified to the Senate.

HB 853—A bill to be entitled An act relating to Pinellas County; providing for the composition of members of the Pinellas County Tourist Development Council appointed pursuant to section 125.0104, Florida Statutes, the "Local Option Tourist Development Act"; providing a effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 261

Yeas—114

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

Wallace	Weissman	Wilson	Wishner
Waters	Wiles		

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

HB 863—A bill to be entitled An act relating to the North Springs Improvement District, Broward County; amending chapter 71-580, Laws of Florida, as amended; increasing the board of supervisors to a total of five members; providing for elections by electors residing within the district; providing for regular and special board meetings instead of landowner meetings; providing for severability; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 262

Yeas—96

The Chair	Crow	Hogan	Murman
Allen	Davis	Holloway	Needelman
Andrews	Detert	Jennings	Paul
Argenziano	Diaz de la Portilla	Johnson	Pickens
Arza	Diaz-Balart	Jordan	Prieguez
Atwater	Dockery	Justice	Rich
Ausley	Farkas	Kallinger	Richardson
Baker	Fasano	Kendrick	Ritter
Ball	Fields	Kilmer	Romeo
Baxley	Fiorentino	Kosmas	Rubio
Bean	Flanagan	Kottkamp	Russell
Bendross-Mindingall	Frankel	Kravitz	Ryan
Benson	Garcia	Lacasa	Seiler
Berfield	Gelber	Lee	Simmons
Betancourt	Gibson	Lerner	Siplin
Bilirakis	Goodlette	Littlefield	Slosberg
Brummer	Gottlieb	Lynn	Sorensen
Brutus	Green	Machek	Stansel
Bucher	Greenstein	Mack	Wallace
Bullard	Harper	Maygarden	Waters
Byrd	Harrell	Meadows	Weissman
Cantens	Hart	Mealor	Wiles
Carassas	Henriquez	Melvin	Wilson
Clarke	Heyman	Miller	Wishner

Nays—None

Votes after roll call:
Yeas—Barreiro, Bowen, Joyner, Kyle, Peterman, Sobel

So the bill passed, as amended, and was immediately certified to the Senate.

HB 867—A bill to be entitled An act relating to Hillsborough County; providing that, notwithstanding any provision of general law, the Hillsborough County Tourist Development Council shall consist of 11 members; providing that the chair of the county governing board, or a designee, serves on the council; providing that an elected municipal official shall be appointed to the council from each municipality within the county; providing that seven members shall be persons involved in the tourist industry; providing that the additional members shall be appointed within 30 days of the effective date of this act; providing that terms of current members are not interrupted by change to council composition; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 263

Yeas—119

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

Nays—None

Votes after roll call:
Yeas—Kilmer

So the bill passed, as amended, and was immediately certified to the Senate.

HB 873—A bill to be entitled An act relating to the City of West Palm Beach, Palm Beach County; amending section 16 of chapter 24981, Laws of Florida, as amended, relating to the West Palm Beach Police Pension Fund; revising the provision for age and service requirements for retirement; revising the provisions for early retirement; revising the provisions of the share accounts related to death of a member; revising the provisions of the deferred retirement option plan; revising the death benefit provisions; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 264

Yeas—119

The Chair	Bilirakis	Fields	Hogan
Alexander	Bowen	Fiorentino	Holloway
Allen	Brown	Flanagan	Jennings
Andrews	Brummer	Frankel	Johnson
Argenziano	Brutus	Gannon	Joyner
Arza	Bucher	Garcia	Justice
Attkisson	Bullard	Gardiner	Kallinger
Atwater	Byrd	Gelber	Kendrick
Ausley	Cantens	Gibson	Kilmer
Baker	Carassas	Goodlette	Kosmas
Ball	Clarke	Gottlieb	Kottkamp
Barreiro	Crow	Green	Kravitz
Baxley	Cusack	Greenstein	Kyle
Bean	Davis	Haridopolos	Lacasa
Bendross-Mindingall	Detert	Harper	Lee
Bennett	Diaz de la Portilla	Harrell	Lerner
Bense	Diaz-Balart	Harrington	Littlefield
Benson	Dockery	Hart	Lynn
Berfield	Farkas	Henriquez	Machek
Betancourt	Fasano	Heyman	Mack

Mahon	Negron	Rubio	Spratt
Mayfield	Paul	Russell	Stansel
Maygarden	Peterman	Ryan	Trovillion
McGriff	Pickens	Seiler	Wallace
Meadows	Prieguez	Simmons	Waters
Mealor	Rich	Siplin	Weissman
Melvin	Richardson	Slosberg	Wiles
Miller	Ritter	Smith	Wilson
Murman	Romeo	Sobel	Wishner
Needelman	Ross	Sorensen	

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 891—A bill to be entitled An act relating to the City of Daytona Beach, Volusia County; providing for the lease of certain submerged lands to the city by the state; providing for the duration of the lease; specifying the amount of the lease; providing for the purpose of the lease; providing that the lease is contingent upon the city's acquisition of the pier situated upon the leased lands; providing additional terms of the lease; prohibiting transfer of lease without legislative action; providing for severability; requiring written submission of acceptance of terms to the Department of Environmental Protection; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 265

Yeas—118

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

HB 917—A bill to be entitled An act relating to Palm Beach County; amending chapter 90-445, Laws of Florida, as amended; providing for the uniform implementation, interpretation, and enforcement of building code requirements pursuant to the Florida Building Code; providing and amending definitions; providing for enforcement; providing for repeal of conflicting laws; providing for interpretation of codes and revision; deleting provisions relating to appointments; providing for authority for building code amendments; providing for amending provisions for product and system evaluation, including application fees and revocation and renewal of product and system compliance; providing severability; providing an effective date.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 345245)

Technical Amendment 3—On page 7, line 17, after "systems" remove from the bill: ,

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

The question recurred on the passage of HB 917. The vote was:

Session Vote Sequence: 266

Yeas—119

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 941—A bill to be entitled An act relating to the City of Jacksonville; amending chapter 92-341, Laws of Florida, as amended; clarifying exemptions provided in the Charter of the City of Jacksonville to the civil service status of designated positions; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 267

Yeas—108

The Chair	Andrews	Attkisson	Baker
Alexander	Argenziano	Atwater	Ball
Allen	Arza	Ausley	Barreiro

Bean	Dockery	Jordan	Peterman
Bendross-Mindingall	Farkas	Kendrick	Pickens
Bennett	Fasano	Kilmer	Rich
Bense	Fiorentino	Kosmas	Richardson
Benson	Flanagan	Kottkamp	Ritter
Berfield	Frankel	Kravitz	Ross
Betancourt	Garcia	Kyle	Rubio
Bilirakis	Gardiner	Lacasa	Russell
Bowen	Gelber	Lee	Ryan
Brown	Gibson	Lerner	Seiler
Brummer	Goodlette	Littlefield	Simmons
Brutus	Green	Lynn	Siplin
Bucher	Greenstein	Machek	Slosberg
Bullard	Haridopolos	Mack	Sobel
Byrd	Harper	Mahon	Sorensen
Cantens	Harrell	Mayfield	Spratt
Carassas	Harrington	Maygarden	Stansel
Clarke	Hart	Meadows	Trovillion
Crow	Henriquez	Melvin	Wallace
Cusack	Heyman	Miller	Waters
Davis	Hogan	Murman	Weissman
Detert	Holloway	Needelman	Wiles
Diaz de la Portilla	Jennings	Negron	Wilson
Diaz-Balart	Johnson	Paul	Wishner

Nays—None

Votes after roll call:
Yeas—Fields, Joyner, Justice, Romeo

So the bill passed and was immediately certified to the Senate.

HB 1125—A bill to be entitled An act relating to Monroe County; amending ch. 99-395, Laws of Florida; establishing effluent water quality limitations for reuse systems; provides interim construction standards for new, expanded, or existing onsite sewage and disposal systems scheduled to be served by a central sewage facility before July 1, 2010; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 268

Yeas—117

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

REPRESENTATIVE MAYGARDEN IN THE CHAIR

HB 1785—A bill to be entitled An act relating to the City of Satellite Beach, Brevard County; amending s. 1 of the city's charter; redefining the boundaries of the city; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 269

Yeas—115

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

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 251—A bill to be entitled An act relating to the tax on sales, use, and other transactions; specifying a period during which the sale of clothing and certain other items shall be exempt from such tax; defining "clothing"; providing exceptions; providing for rules; providing an appropriation; providing an effective date.

—was read the third time by title.

Representative(s) Kilmer offered the following:

(Amendment Bar Code: 154791)

Amendment 2 (with title amendment)—On page 1, line 12 remove from the bill: everything after the enacting clause

and insert in lieu thereof:

Section 1. *This act may be cited as the "Florida Residents' Tax Relief Act of 2001."*

Section 2. *(1) No tax levied under the provisions of chapter 212, Florida Statutes, shall be collected on sales of clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a selling price of $100 or less, during the period from 12:01 a.m., August 1, 2001, through midnight, August 6, 2001.*

(2) As used in this section, "clothing" means any article of wearing apparel, including all footwear, except skis, swim fins, in-line skates, and other skates, intended to be worn on or about the human body. For purposes of this section, "clothing" does not include watches, watchbands, jewelry, umbrellas, or handkerchiefs.

(3) This section does not apply to sales within a theme park or entertainment complex, as defined by s. 509.013(9), Florida Statutes, within a public lodging establishment, as defined by s. 509.013(4), Florida Statutes, or within an airport, as defined by s. 330.27(2), Florida Statutes.

(4) The provisions of chapter 120, Florida Statutes, to the contrary notwithstanding, the Department of Revenue may adopt rules to carry out this section.

Section 3. *(1) A tax levied under chapter 212, Florida Statutes, may not be collected on sales of school supplies having a selling price of $10 per item or less during the period from 12:01 a.m., August 1, 2001, through midnight, August 6, 2001.*

(2) As used in this section, the term "school supplies" includes pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, protractors, compasses, and calculators.

(3) The provisions of chapter 120, Florida Statutes, to the contrary notwithstanding, the Department of Revenue may adopt rules to carry out this section.

Section 4. *The sum of $200,000 is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of administering this act.*

Section 5. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, lines 2-8
remove from the title of the bill: all of said lines

and insert in lieu thereof:
An act relating to the tax on sales, use, and other transactions; specifying a period during which the sale of clothing, school supplies, and certain other items shall be exempt from such tax; defining "clothing" and "school supplies" for purposes of the exemption; providing exceptions; providing for rules; providing an appropriation; providing an effective date.

Rep. Kilmer moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 251. The vote was:

Session Vote Sequence: 270

Yeas—106

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

Nays—13

Bucher	Justice	Peterman	Slosberg
Frankel	Lee	Richardson	Smith
Gottlieb	McGriff	Romeo	Weissman
Joyner			

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

CS/HB 1253—A bill to be entitled An act relating to health care; making legislative findings and providing legislative intent; providing definitions; providing for a pilot program for health flex plans for certain uninsured persons; providing criteria; exempting approved health flex plans from certain licensing requirements; providing criteria for eligibility to enroll in a health flex plan; requiring health flex plan providers to maintain certain records; providing requirements for denial, nonrenewal, or cancellation of coverage; specifying coverage under an approved health flex plan is not an entitlement; providing for civil actions against health plan entities by the Agency for Health Care Administration under certain circumstances; amending s. 627.6699, F.S.; revising a definition; requiring the Insurance Commissioner to appoint a health benefit plan committee to modify the standard, basic, and limited health benefit plans; revising the disclosure that a carrier must make to a small employer upon offering certain policies; prohibiting small employer carriers from using certain policies, contracts, forms, or rates unless filed with and approved by the Department of Insurance pursuant to certain provisions; restricting application of certain laws to limited benefit policies under certain circumstances; authorizing offering or delivering limited benefit policies or contracts to certain employers; providing requirements for benefits in limited benefit policies or contracts for small employers; providing an effective date.

—was read the third time by title.

On motion by Rep. Farkas, under Rule 12.2(c), the following late-filed amendment was considered.

Representative(s) Farkas offered the following:

(Amendment Bar Code: 874871)

Amendment 2 (with title amendment)—On page 11, between lines 6 & 7, of the bill

insert:

Section 3. It is hereby appropriated for State Fiscal Year 2001-2002, $713,493 from the General Revenue Fund and $924,837 from the Medical Care Trust Fund to increase the pharmaceutical dispensing fee for prescriptions dispensed to nursing home residents and other institutional residents from $4.23 to $4.73 per prescription.

And the title is amended as follows:

On page 2, line 4, after "employers;"

insert: providing an appropriation;

Rep. Farkas moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/HB 1253. The vote was:

Session Vote Sequence: 271

Yeas—118

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Ritter, consideration of **CS/HB 1889** was temporarily postponed under Rule 11.10.

On motion by Rep. Ritter, consideration of **CS/HB 1891** was temporarily postponed under Rule 11.10.

On motion by Rep. Ritter, consideration of **CS/HB 1893** was temporarily postponed under Rule 11.10.

On motion by Rep. Ritter, consideration of **HB 1919** was temporarily postponed under Rule 11.10.

CS/HB 293—A bill to be entitled An act relating to the Certified Capital Company Act; amending s. 288.99, F.S.; redefining the terms "early stage technology business" and "qualified distribution"; defining the terms "Program One" and "Program Two"; revising procedures and dates for certification and decertification under Program One and Program Two; revising the process for earning premium tax credits; providing a limitation on tax credits under Program Two; authorizing the Department of Banking and Finance to levy a fine; providing for distributions under both programs; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 272

Yeas—119

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

Nays—1

The Chair

So the bill passed, as amended, and was immediately certified to the Senate.

CS/HB 949—A bill to be entitled An act relating to local government regulation of water or wastewater utilities; amending s. 367.171, F.S.; providing for regulation of certain utilities by certain counties; prohibiting exercise of eminent domain by certain governmental entities under certain circumstances; providing an effective date.

—was read the third time by title.

Representative(s) Fasano offered the following:

(Amendment Bar Code: 905169)

Amendment 2 (with title amendment)—On page 1, line 11,

insert:

Section 1. Section 367.0816, Florida Statutes, is amended to read:

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

And the title is amended as follows:

On page 1, line 3, after the semicolon,

and insert in lieu thereof: amending s. 367.0816, F.S.; requiring a reduction in utility rates by the amount of certain rate case expenses after a time certain;

Rep. Fasano moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Miller offered the following:

(Amendment Bar Code: 680183)

Amendment 3 (with title amendment)—On page 1, line 31 through page 2 line 3,
remove from the bill: all of said lines

and insert in lieu thereof: the county or agency is the commission. ~~In all proceedings conducted by a county or its agency under the authority of this chapter, the provisions of ss. 120.569 and 120.57 shall apply.~~

And the title is amended as follows:

On page 1, line 8, after the semicolon

insert: striking provisions relating to the application of ss. 120.569 and 120.57 to county proceedings;

Rep. Miller moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/HB 949. The vote was:

Session Vote Sequence: 273

Yeas—111

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

Nays—9

Bendross-Mindingall	Goodlette	Lerner	Paul
Clarke	Green	Machek	Simmons
Cusack			

Votes after roll call:
Yeas to Nays—Hart

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

CS/CS/HB 1509—A bill to be entitled An act relating to student financial assistance; amending s. 231.621, F.S.; providing for loan repayments under the Critical Teacher Shortage Student Loan Forgiveness Program directly to the teacher under certain circumstances; amending s. 240.209, F.S.; revising language with respect to student fees; increasing the percentage of funds from the financial aid fee to be used for need-based financial aid; requiring Board of Regents to develop criteria for making awards; providing for an annual report; amending s. 240.271, F.S.; requiring that a minimum percentage of funds provided in the General Appropriations Act for fellowship and fee waivers shall be used only to support graduate students or upper-division students in certain disciplines; amending s. 240.35, F.S.; revising language with respect to student fees; increasing the percentage of funds from the financial aid fee to be used for need-based financial aid; revising provisions regarding annual report; amending s. 240.40201, F.S.; revising general student eligibility requirements for the Florida Bright Futures Scholarship Program; amending s. 240.40202, F.S., relating to the Florida Bright Futures Scholarship Program; revising student eligibility provisions for initial award of a Florida Bright Futures Scholarship; revising language with respect to reinstatement applications; requiring school districts to provide each high school student a Florida Bright Futures Scholarship Evaluation Report and Key; amending s. 240.40203, F.S.; providing requirements for renewal, reinstatement, and restoration awards under the Florida Bright Futures Scholarship Program; revising provisions relating to award limits; amending s. 240.40204, F.S.; updating obsolete language with respect to eligible postsecondary education institutions under the Florida Bright Futures Scholarship Program; amending s. 240.40205, F.S.; revising eligibility requirements with respect to the Florida Academic Scholars award; amending s. 240.40206, F.S.; changing the name of the Florida Merit Scholars award to the Florida Medallion Scholars award; revising eligibility requirements with respect to the award; amending s. 240.40207, F.S.; revising eligibility requirements with respect to the Florida Gold Seal Vocational Scholars award; providing restrictions on use of the award; providing for transfer of awards; creating s. 240.40211, F.S.; providing for Florida Bright Futures Scholarship Program targeted occupations; providing student awards; repealing s. 240.40242, F.S., relating to the use of certain scholarship funds by children of deceased or disabled veterans; providing for the Florida Bright Futures Scholarship Testing Program; requiring the Articulation Coordinating Committee to identify scores, credit, and courses for which credit may be awarded for specified examinations; requiring the completion of examinations for receipt of certain awards; providing requirements with respect to the award of credit; requiring annual reporting of the effectiveness of the program; amending s. 240.404, F.S.; revising language with respect to general requirements for student eligibility for state financial aid; reenacting, renumbering, and amending ss. 240.2985 and 240.6054, F.S.; revising and combining provisions relating to ethics in business scholarships; amending s. 240.409, F.S.; revising language with respect to the Florida Public Student Assistance Grant Program; revising eligibility criteria; amending s. 240.4095, F.S.; revising language with respect to the Florida Private Student Assistance Grant Program; revising eligibility criteria; amending s. 240.4097, F.S.; revising language with respect to the Florida Postsecondary Student Assistance Grant Program; revising eligibility criteria; creating s. 240.40975, F.S.; providing for priority with respect to Florida student assistance grant programs; amending s. 240.4128, F.S.; revising language with respect to the minority teacher education scholars program; requiring participating institutions to report on eligible students to whom scholarships are disbursed each academic term; amending s. 240.437, F.S.; revising language with respect to student financial aid planning and development; amending s. 240.465, F.S.; deleting language which prohibits certain delinquent borrowers from being furnished with their academic transcripts; reenacting and amending s. 240.551, F.S.; revising language with respect to the Florida Prepaid College Program; revising language with respect to transfer and refund provisions; providing for a rollover of benefits to a college savings program at the redemption value of the advance payment contract at a state postsecondary institution; revising provisions relating to appointment of directors of the direct-support organization; creating s. 240.6053, F.S.; providing for academic program contracts and for funding thereof; amending s. 295.02, F.S.; including postsecondary education institutions eligible to participate in the Florida Bright Futures Scholarship Program among institutions at which children of certain service members may receive an award under ch. 295, F.S.; providing effective dates.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 274

Yeas—120

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

On motion by Rep. Byrd, the House moved to the consideration of HB 531 on Bills and Joint Resolutions on Third Reading.

HB 531 was taken up. On motion by Rep. Gardiner, the rules were waived and—

CS for CS for SB 1282—A bill to be entitled An act relating to property crimes; amending s. 812.012, F.S.; providing a definition of cargo; amending s. 812.014, F.S.; providing second-degree felony penalties for theft of certain emergency medical equipment and theft of certain cargo; providing a penalty for subsequent convictions for stealing cargo; amending s. 812.015, F.S.; revising certain definitions; authorizing a merchant or merchant's employee to provide a business address for purposes of any investigation with respect to the offense of retail theft; providing a felony penalty for unlawfully possessing antishoplifting or inventory control device countermeasures; providing a third-degree felony penalty for certain commission of retail theft; providing a second-degree felony penalty for second or subsequent violations of such retail theft; creating s. 812.0155, F.S.; authorizing a court to suspend the driver's license of certain persons under certain circumstances; requiring a court to suspend the driver's license of such persons for second or subsequent offenses; providing for increased periods of suspension for second or subsequent adjudications; providing requirements of court for revoking, suspending, or withholding issuance of the driver's license of certain persons; providing construction; creating s. 812.017, F.S.; providing misdemeanor penalties for the use of a fraudulently obtained or false receipt to request a refund or obtain merchandise; creating s. 812.0195, F.S.; providing criminal penalties for dealing in stolen property by use of the Internet; creating s. 817.625, F.S.; providing definitions; providing a felony penalty for using a scanning device to access, read, obtain, memorize, or store information encoded on a payment card without the permission of, and with intent to defraud, the authorized user of the payment card, issuer of the payment card, or merchant; providing a felony penalty for using a reencoder to place information onto a payment card without the permission of, and with intent to defraud, the authorized user of the payment card; providing an enhanced penalty for a second or subsequent violation of the act; subjecting certain violations to the Florida Contraband Forfeiture Act; amending ss. 831.07, 831.08, 831.09, F.S.; prohibiting forging a check or draft or possessing or passing a forged check or draft; providing penalties; reenacting s. 831.10, F.S., relating to second conviction of uttering forged bills, to incorporate a reference; amending s. 831.11, F.S.; prohibiting bringing a forged or counterfeit check or draft into the state; providing a penalty; amending s. 831.12, F.S.; providing that connecting together checks or drafts to produce an additional check or draft constitutes the offense of forgery; creating s. 831.28, F.S.; providing a definition; making unlawful the counterfeiting of payment instruments with intent to defraud or possessing counterfeit payment instruments; providing a felony penalty; specifying acts that constitute prima facie evidence of intent to defraud; authorizing a law enforcement agency to produce or display a counterfeit payment instrument for training purposes; amending s. 832.05, F.S.; providing that prior passing of a worthless check or draft is not notice to the payee of insufficient funds to ensure payment of a subsequent check or draft; amending s. 921.0022, F.S.; conforming provisions of the Offense Severity Ranking Chart of the Criminal Punishment Code to changes made by the act; encouraging local law enforcement agencies to establish a task force on retail crime; providing direction on the composition, operation, and termination of such a task force; providing severability; providing an effective date.

—was substituted for HB 531 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Gardiner, the rules were waived and CS for CS for SB 1282 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 275

Yeas—119

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

Nays—None

So the bill passed and was immediately certified to the Senate.

CS/HB 1927—A bill to be entitled An act relating to workers' compensation; amending s. 440.02, F.S.; revising definitions; amending s. 440.06, F.S.; requiring employers to secure compensation; amending s. 440.09, F.S.; limiting compensation for certain impairments; requiring certain entities actively engaged in the construction industry to secure payment of compensation under chapter 440, F.S., after a certain date; amending s. 440.10, F.S.; specifying liability for compensation; creating s. 440.1025, F.S.; providing for consideration of a public employer workplace safety program in rate-setting; amending s. 440.11, F.S; providing for exclusiveness of liability; amending s. 440.13, F.S.; providing an additional criterion for determining certain value of nonprofessional attendant care provided by a family member; requiring carriers to allow employees to change physicians under certain circumstances; specifying payments for independent medical examinations; deleting selection of independent medical examiner criteria; specifying the number of medical opinions admissible into evidence; providing an exception to certain recourse for payment for services rendered; amending s. 440.134, F.S.; revising a definition; revising certain grievance procedures for workers' compensation managed care arrangements; amending s. 440.14, F.S.; providing for determination of pay; amending s. 440.15, F.S.; revising criteria for payment of compensation for permanent total disability; revising criteria for payment of permanent impairment and wage-loss benefits; amending s. 440.151, F.S.; providing for compensation for occupational diseases; amending s. 440.185, F.S.; requiring additional information in a report of injury; amending s. 440.191, F.S.; including managed care arrangements under provisions relating to the Employee Assistance and Ombudsman Office; revising procedures for petitions for benefits under the office; amending s. 440.192, F.S.; revising procedures for resolving benefit disputes; transferring duties and responsibilities of the Division of Workers' Compensation to the Office of the Judges of Compensation Claims; amending s. 440.20, F.S.; specifying time for payment of compensation; prohibiting approval of settlement proposals providing for attorney's fees in excess of certain amounts; amending s. 440.25, F.S.; limiting continuances under procedures for mediation and hearings; providing for selections of mediators by the Chief Judge; providing for holding mediation conferences instead of mediation hearings under certain circumstances; providing for completion of pretrial stipulations; authorizing a judge of compensation claims to sanction certain parties under certain circumstances; requiring a judge of compensation claims to order a pretrial hearing for certain purposes under certain circumstances; revising final hearing time limitations and procedures; deleting a requirement that judges of compensation claims adopt and enforce certain uniform local rules; specifying resolution of determination of pay claims; requiring resolution of certain claims through an expedited dispute resolution process; providing for dismissal of certain petitions for lack of prosecution under certain circumstances; amending s. 440.29, F.S.; providing for receipt into evidence of medical reports from independent medical examiners; amending s. 440.34, F.S.; providing for limited additional attorney's fees in medical-only cases; prohibiting approval of attorney's fees in excess of certain amounts; deleting criteria for determining certain attorney's fees; amending s. 440.345, F.S.; requiring a summary report of attorney's fees to the Governor and the Legislature; amending s. 440.39, F.S.; specifying duties of carriers with respect to certain evidence; amending s. 440.4416, F.S.; revising membership, member criteria, terms, and meetings requirements of the Workers' Compensation Oversight Board; deleting an obsolete provision; providing additional reporting requirements for the board; amending s. 627.0915, F.S.; deleting obsolete provisions; providing that determinations under ss. 112.18, 112.181, 112.19, F.S., are not affected; repealing s. 440.45(3), F.S., relating to rotating docketing judges of compensation claims; providing severability; providing an effective date.

—was read the third time by title.

THE SPEAKER IN THE CHAIR

Representative(s) Smith offered the following:

(Amendment Bar Code: 030509)

Amendment 26—On page 22, line 6,
remove from the bill: 3

and insert in lieu thereof: *5*

Rep. Smith moved the adoption of the amendment, which failed to receive the necessary two-thirds vote for adoption.

Representative(s) Smith offered the following:

(Amendment Bar Code: 570671)

Amendment 27 (with title amendment)—On page 47, line 11 through Page 51, Line 14,
remove from the bill: all of said lines

and insert in lieu thereof: Section 440.4416, Florida Statutes, is hereby repealed.

And the title is amended as follows:

On page 3, lines 25-30,
remove from the title of the bill: all of said lines

and insert in lieu thereof: certain evidence; amending

Rep. Smith moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/HB 1927. The vote was:

Session Vote Sequence: 276

Yeas—70

The Chair	Carassas	Harrington	Murman
Alexander	Clarke	Hart	Needelman
Allen	Crow	Hogan	Negron
Arza	Davis	Jennings	Paul
Baker	Detert	Kendrick	Pickens
Ball	Diaz-Balart	Kottkamp	Prieguez
Baxley	Dockery	Kravitz	Ritter
Bean	Farkas	Kyle	Ross
Bennett	Fasano	Lacasa	Rubio
Bense	Fields	Littlefield	Russell
Benson	Flanagan	Lynn	Simmons
Berfield	Garcia	Mack	Sorensen
Bilirakis	Gardiner	Mayfield	Spratt
Bowen	Gibson	Maygarden	Trovillion
Brown	Goodlette	McGriff	Wallace
Brummer	Green	Mealor	Waters
Byrd	Haridopolos	Melvin	
Cantens	Harrell	Miller	

Nays—39

Argenziano	Gelber	Kosmas	Siplin
Ausley	Gottlieb	Lerner	Slosberg
Bendross-Mindingall	Greenstein	Machek	Smith
Betancourt	Harper	Mahon	Sobel
Bucher	Henriquez	Peterman	Stansel
Bullard	Heyman	Rich	Weissman
Cusack	Holloway	Richardson	Wiles
Diaz de la Portilla	Joyner	Romeo	Wilson
Frankel	Justice	Ryan	Wishner
Gannon	Kallinger	Seiler	

Votes after roll call:
Yeas—Atwater, Johnson, Kilmer
Nays—Fiorentino

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

Disclosure of Interest

I am a member of a law firm that does a lot of Workers' Comp. defense. This fact does not sway my position on this bill, however, I feel it is important that the public is aware of my business interest as it relates to this bill.

Rep. Christopher L. "Chris" Smith
District 93

On motion by Rep. Byrd, consideration of **HB 1111** was temporarily postponed under Rule 11.10.

HB 1519—A bill to be entitled An act relating to disability services; creating s. 402.74, F.S; creating the Clearinghouse on Disability Information Office in the Department of Management Services; requiring the office to establish a statewide toll-free disability information and referral system; creating an advisory council; providing qualifications for staff of the office; providing for the sharing of information by state agencies; providing for an annual report; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 277

Yeas—115

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

Nays—None

Votes after roll call:
Yeas—Joyner, Smith

So the bill passed, as amended, and was immediately certified to the Senate.

Recessed

On motion by Rep. Byrd, the House recessed at 12:26 p.m., to reconvene at 1:30 p.m. today or upon call of the Chair.

Reconvened

The House was called to order by the Speaker at 1:38 p.m. A quorum was present [Session Vote Sequence: 278].

On motion by Rep. Byrd, the rules were waived and the House moved to the order of—

Unfinished Business

On motion by Rep. Byrd, the House moved to the consideration of SB 708.

SB 708—A bill to be entitled An act relating to education; amending s. 231.40, F.S.; limiting the amount of pay certain employees of district school systems may receive for unused sick leave upon termination of employment; providing conditions on the use of sick leave; amending s. 231.481, F.S.; limiting the amount of pay certain employees of district school systems may earn for unused vacation leave upon termination of employment; amending s. 240.343, F.S.; limiting the amount of pay certain employees of community college districts may receive for unused sick leave upon termination of employment; providing conditions on the use of sick leave; providing for payment to the employee's beneficiary under specified conditions; providing an effective date.

—was taken up, having been read the third time on April 30; now pending roll call.

The question recurred on the passage of SB 708. The vote was:

Session Vote Sequence: 279

Yeas—61

The Chair	Brummer	Greenstein	Melvin
Alexander	Byrd	Haridopolos	Murman
Allen	Cantens	Harrell	Negron
Andrews	Carassas	Harrington	Paul
Arza	Clarke	Hart	Pickens
Attkisson	Crow	Johnson	Prieguez
Atwater	Davis	Jordan	Rubio
Baker	Detert	Kallinger	Russell
Baxley	Diaz de la Portilla	Kilmer	Simmons
Bennett	Diaz-Balart	Kottkamp	Sorensen
Bense	Fasano	Kyle	Spratt
Benson	Flanagan	Littlefield	Trovillion
Berfield	Garcia	Lynn	Wallace
Bilirakis	Gardiner	Mack	
Bowen	Gibson	Mahon	
Brown	Green	Maygarden	

Nays—47

Ball	Gottlieb	Lee	Seiler
Bean	Harper	Lerner	Siplin
Bendross-Mindingall	Henriquez	Machek	Slosberg
Betancourt	Heyman	Mayfield	Smith
Brutus	Hogan	McGriff	Sobel
Bucher	Holloway	Meadows	Stansel
Bullard	Jennings	Miller	Waters
Cusack	Joyner	Peterman	Weissman
Dockery	Justice	Rich	Wiles
Frankel	Kendrick	Richardson	Wilson
Gannon	Kosmas	Ritter	Wishner
Gelber	Kravitz	Romeo	

Votes after roll call:
Yeas—Farkas, Fields
Nays—Argenziano, Ausley, Fiorentino, Ross, Ryan
Yeas to Nays—Detert

So the bill passed, and was immediately certified to the Senate.

On motion by Rep. Byrd, the House moved to the consideration of CS for CS for CS for SB 1202.

CS for CS for CS for SB 1202—A bill to be entitled An act relating to long-term care; amending s. 400.0073, F.S.; clarifying duties of the local ombudsman councils with respect to inspections of nursing homes and long-term-care facilities; amending s. 400.021, F.S.; defining the

terms "controlling interest" and "voluntary board member" and revising the definition of "resident care plan" for purposes of part II of ch. 400, F.S., relating to the regulation of nursing homes; requiring the Agency for Health Care Administration and the Office of the Attorney General to study the use of electronic monitoring devices in nursing homes; requiring a report; amending s. 400.023, F.S.; providing for election of survival damages, wrongful death damages, or recovery for negligence; providing for attorney's fees for injunctive relief or administrative remedy; providing that ch. 766, F.S., does not apply to actions under this section; providing burden of proof; providing that a violation of a right is not negligence per se; prescribing the duty of care; prescribing a nurse's duty of care; eliminating presuit provisions; eliminating the requirement for presuit mediation; creating s. 400.0233, F.S; providing for presuit notice; prohibiting the filing of suit for a specified time; requiring a response to the notice; tolling the statute of limitations; limiting discovery of presuit investigation documents; limiting liability of presuit investigation participants; authorizing the obtaining of opinions from a nurse or doctor; authorizing the obtaining of unsworn statements; authorizing discovery of relevant documents; prescribing the time for acceptance of settlement offers; requiring mediation; prescribing the time to file suit; creating s. 400.0234, F.S.; requiring the availability of facility records for presuit investigation; specifying the records to be made available; specifying what constitutes evidence of failure to make records available in good faith; specifying the consequences of such failure; creating s. 400.0235, F.S.; providing that the provisions of s. 768.21(8), F.S., do not apply to actions under part II of ch. 400, F.S.; creating s. 400.0236, F.S.; providing a statute of limitations; providing a statute of limitations when there is fraudulent concealment or intentional misrepresentation of fact; providing for application of the statute of limitation to accrued actions; creating s. 400.0237, F.S.; requiring evidence of the basis for punitive damages; prohibiting discovery relating to financial worth; providing for proof of punitive damages; defining the terms "intentional misconduct" and "gross negligence"; prescribing criteria governing employers' liability for punitive damages; providing for the remedial nature of provisions; creating s. 400.0238, F.S.; prescribing limits on the amount of punitive damages; providing for a criminal investigation with a finding of liability for punitive damages under certain circumstances; providing for the admissibility of findings in subsequent civil and criminal actions; providing for the calculation of attorney's fees; amending s. 768.735, F.S.; providing that the section is inapplicable to actions brought under ch. 400, F.S.; amending s. 415.1111, F.S.; limiting actions against nursing homes and assisted living facilities; amending s. 400.0255, F.S.; providing for applicability of provisions relating to transfer or discharge of nursing home residents; amending s. 400.062, F.S.; increasing the bed license fee for nursing home facilities; amending s. 400.071, F.S.; revising license application requirements; requiring certain disclosures; authorizing the Agency for Health Care Administration to issue an inactive license; requiring quality assurance and risk-management plans; amending s. 400.102, F.S.; providing additional grounds for action by the agency against a licensee; amending s. 400.111, F.S.; prohibiting renewal of a license if an applicant has failed to pay certain fines; requiring licensees to disclose financial or ownership interests in certain entities; authorizing placing fines in escrow; amending s. 400.118, F.S.; revising duties of quality-of-care monitors in nursing facilities; amending s. 400.121, F.S.; specifying additional circumstances under which the agency may deny, revoke, or suspend a facility's license or impose a fine; authorizing placing fines in escrow; requiring that the agency revoke or deny a nursing home license under specified circumstances; providing standards for administrative proceedings; providing for the agency to assess the costs of an investigation and prosecution; specifying facts and conditions upon which administrative actions that are challenged must be reviewed; amending s. 400.126, F.S.; requiring an assessment of residents in nursing homes under receivership; providing for alternative care for qualified residents; amending s. 400.141, F.S.; providing additional administrative and management requirements for licensed nursing home facilities; requiring a facility to submit information on staff-to-resident ratios, staff turnover, and staff stability; requiring that certain residents be examined by a licensed physician; providing requirements for dining and hospitality attendants; requiring additional reports to the agency; requiring minimum amounts of liability insurance coverage; requiring daily charting of specified certified nursing assistant services; creating s. 400.1413, F.S.; authorizing nursing homes to impose certain requirements on volunteers; creating s. 400.147, F.S.; requiring each licensed nursing home facility to establish an internal risk management and quality assurance program; providing requirements of the program; requiring the use of incident reports; defining the term "adverse incident"; requiring that the agency be notified of adverse incidents; requiring reporting of liability claims; specifying duties of the internal risk manager; requiring the reporting of sexual abuse; limiting the liability of a risk manager; requiring that the agency report certain conduct to the appropriate regulatory board; requiring that the agency annually report to the Legislature on the internal risk management of nursing homes; creating s. 400.148, F.S.; providing for a pilot project to coordinate resident quality of care through the use of medical personnel to monitor patients; providing purpose; providing for appointment of guardians; creating s. 400.1755, F.S.; prescribing training standards for employees of nursing homes that provide care for persons with Alzheimer's disease or related disorders; prescribing duties of the Department of Elderly Affairs; amending s. 400.19, F.S.; requiring the agency to conduct surveys of certain facilities cited for deficiencies; providing for a survey fine; providing for inspections; amending s. 400.191, F.S.; requiring the agency to publish a Nursing Home Guide Watch List; specifying contents of the watch list; specifying distribution of the watch list; requiring that nursing homes post certain additional information; amending s. 400.211, F.S.; revising employment requirements for nursing assistants; requiring in-service training; amending s. 400.23, F.S.; revising minimum staffing requirements for nursing homes; requiring the documentation and posting of compliance with such standards; requiring correction of deficiencies prior to change in conditional status; providing definitions of deficiencies; adjusting the fines imposed for certain deficiencies; amending s. 400.235, F.S.; revising requirements for the Gold Seal Program; creating s. 400.275, F.S.; providing for training of nursing-home survey teams; amending s. 400.407, F.S.; revising certain licensing requirements; providing for the biennial license fee to be based on number of beds; amending s. 400.414, F.S.; specifying additional circumstances under which the Agency for Health Care Administration may deny, revoke, or suspend a license; providing for issuance of a temporary license; amending s. 400.419, F.S.; increasing the fines imposed for certain violations; creating s. 400.423, F.S.; requiring certain assisted living facilities to establish an internal risk management and quality assurance program; providing requirements of the program; requiring the use of incident reports; defining the term "adverse incident"; requiring that the agency be notified of adverse incidents and of liability claims; requiring reporting of liability claims; specifying duties of the internal risk manager; requiring that the agency report certain conduct to the appropriate regulatory board; requiring that the agency annually report to the Legislature on the internal risk management of assisted living facilities; amending s. 400.426, F.S.; requiring that certain residents be examined by a licensed physician; amending s. 400.429, F.S.; providing for election of survival damages, wrongful death damages, or recovery for negligence; providing for attorney's fees for injunctive relief or administrative remedy; providing that ch. 766, F.S., does not apply to actions under this section; prescribing the burden of proof; providing that a violation of a right is not negligence per se; prescribing the duty of care; prescribing a nurse's duty of care; eliminating presuit provisions; eliminating the requirement for presuit mediation; requiring copies of complaints filed in court to be provided to the agency; creating s. 400.4293, F.S; providing for presuit notice; prohibiting the filing of suit for a specified time; requiring a response to the notice; tolling the statute of limitations; limiting the discovery of presuit investigation documents; limiting liability of presuit investigation participants; authorizing the obtaining of opinions from a nurse or doctor; authorizing the obtaining of unsworn statements; authorizing discovery of relevant documents; prescribing a time for acceptance of settlement offers; requiring mediation; prescribing the time to file suit; creating s. 400.4294, F.S.; requiring the availability of facility records for presuit investigation; specifying the records to be made available; specifying what constitutes evidence of failure to make records available in good faith; specifying the consequences of such failure; creating s. 400.4295, F.S.; providing that the provisions of s. 768.21(8), F.S., do not apply to actions under part III of ch. 400, F.S.; creating s. 400.4296, F.S.;

providing a statute of limitations; providing a statute of limitations when there is fraudulent concealment or intentional misrepresentation of fact; providing for application of the statute of limitation to accrued actions; creating s. 400.4297, F.S.; requiring evidence of the basis for punitive damages; prohibiting discovery relating to financial worth; providing for proof of punitive damages; defining the terms "intentional misconduct" and "gross negligence"; prescribing criteria governing employers' liability for punitive damages; providing for the remedial nature of provisions; creating s. 400.4298, F.S.; providing limits on the amount of punitive damages; providing for a criminal investigation with a finding of liability for punitive damages under certain circumstances; providing for the admissibility of findings in subsequent civil and criminal actions; providing for the calculation of attorney's fees; amending s. 400.434, F.S.; authorizing the Agency for Health Care Administration to use information obtained by certain councils; amending s. 400.441, F.S.; clarifying facility inspection requirements; creating s. 400.449, F.S.; prohibiting the alteration or falsification of medical or other records of an assisted living facility; providing penalties; amending s. 409.908, F.S.; prohibiting nursing home reimbursement rate increases associated with changes in ownership; modifying requirements for nursing home cost reporting; requiring a report; amending s. 464.203, F.S.; revising certification requirements for nursing assistants; authorizing employment of certain nursing assistants pending certification; requiring continuing education; amending s. 397.405, F.S., relating to service providers; conforming provisions to changes made by the act; prohibiting the issuance of a certificate of need for additional nursing home beds; providing intent for such prohibition; reenacting s. 400.0255(3), (8), F.S., relating to discharge or transfer of residents; reenacting s. 400.23(5), F.S., relating to rules for standards of care for persons under a specified age residing in nursing home facilities; reenacting s. 400.191(2), (6), F.S., relating to requirements for providing information to consumers; reenacting s. 400.0225, F.S., relating to consumer satisfaction surveys for nursing homes; reenacting s. 400.141(4), (5), F.S., relating to the repackaging of residents' medication and access to other health-related services; reenacting s. 400.235(3)(a), (4), (9), F.S., relating to designation under the nursing home Gold Seal Program; reenacting s. 400.962(1), F.S., relating to the requirement for licensure under pt. IX of ch. 400, F.S.; reenacting s. 10 of ch. 2000-350, Laws of Florida, relating to requirements for a study of the use of automated medication-dispensing machines in nursing facilities and for demonstration projects and a report; amending s. 627.351, F.S.; creating the Senior Care Facility Joint Underwriting Association; defining the term "senior care facility"; requiring that the association operate under a plan approved by the Department of Insurance; requiring that certain insurers participate in the association; providing for a board of governors appointed by the Insurance Commissioner to administer the association; providing for terms of office; providing requirements for the plan of operation of the association; requiring that insureds of the association have a risk-management program; providing procedures for offsetting an underwriting deficit; providing for assessments to offset a deficit; providing that a participating insurer has a cause of action against a nonpaying insurer to collect an assessment; requiring the department to review and approve rate filings of the association; amending s. 400.562, F.S.; revising requirements for standards to be included in rules implementing part V of ch. 400, F.S.; providing for applicability of specified provisions of the act; providing appropriations; providing for severability; providing effective dates.

—was taken up, having been read the second time on April 30.

Representative(s) Green and Davis offered the following:

(Amendment Bar Code: 341895)

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

and insert in lieu thereof:

Section 1. Subsection (4) of section 400.0073, Florida Statutes, is amended to read:

400.0073 State and local ombudsman council investigations.—

(4) In addition to any specific investigation made pursuant to a complaint, the local ombudsman council shall conduct, at least annually, an investigation, which shall consist, in part, of an onsite administrative inspection, of each nursing home or long-term care facility within its jurisdiction. *This inspection shall focus on the rights, health, safety, and welfare of the residents.*

Section 2. Section 400.021, Florida Statutes, is amended to read:

400.021 Definitions.—When used in this part, unless the context otherwise requires, the term:

(1) "Administrator" means the licensed individual who has the general administrative charge of a facility.

(2) "Agency" means the Agency for Health Care Administration, which is the licensing agency under this part.

(3) "Bed reservation policy" means the number of consecutive days and the number of days per year that a resident may leave the nursing home facility for overnight therapeutic visits with family or friends or for hospitalization for an acute condition before the licensee may discharge the resident due to his or her absence from the facility.

(4) "Board" means the Board of Nursing Home Administrators.

(5) "Controlling interest" means:

(a) The applicant for licensure or a licensee;

(b) A person or entity that serves as an officer of, is on the board of directors of, or has a 5 percent or greater ownership interest in the management company or other entity, related or unrelated, which the applicant or licensee may contract with to operate the facility; or

(c) A person or entity that serves as an officer of, is on the board of directors of, or has a 5 percent or greater ownership interest in the applicant or licensee.

The term does not include a voluntary board member.

(6)~~(5)~~ "Custodial service" means care for a person which entails observation of diet and sleeping habits and maintenance of a watchfulness over the general health, safety, and well-being of the aged or infirm.

(7)~~(6)~~ "Department" means the Department of Children and Family Services.

(8)~~(7)~~ "Facility" means any institution, building, residence, private home, or other place, whether operated for profit or not, including a place operated by a county or municipality, which undertakes through its ownership or management to provide for a period exceeding 24-hour nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services, but does not include any place providing care and treatment primarily for the acutely ill. A facility offering services for fewer than three persons is within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services.

(9)~~(8)~~ "Geriatric outpatient clinic" means a site for providing outpatient health care to persons 60 years of age or older, which is staffed by a registered nurse or a physician assistant.

(10)~~(9)~~ "Geriatric patient" means any patient who is 60 years of age or older.

(11)~~(10)~~ "Local ombudsman council" means a local long-term care ombudsman council established pursuant to s. 400.0069, located within the Older Americans Act planning and service areas.

(12)~~(11)~~ "Nursing home bed" means an accommodation which is ready for immediate occupancy, or is capable of being made ready for occupancy within 48 hours, excluding provision of staffing; and which conforms to minimum space requirements, including the availability of

appropriate equipment and furnishings within the 48 hours, as specified by rule of the agency, for the provision of services specified in this part to a single resident.

(13)~~(12)~~ "Nursing home facility" means any facility which provides nursing services as defined in part I of chapter 464 and which is licensed according to this part.

(14)~~(13)~~ "Nursing service" means such services or acts as may be rendered, directly or indirectly, to and in behalf of a person by individuals as defined in s. 464.003.

(15)~~(14)~~ "Planning and service area" means the geographic area in which the Older Americans Act programs are administered and services are delivered by the Department of Elderly Affairs.

(16)~~(15)~~ "Respite care" means admission to a nursing home for the purpose of providing a short period of rest or relief or emergency alternative care for the primary caregiver of an individual receiving care at home who, without home-based care, would otherwise require institutional care.

(17)~~(16)~~ "Resident care plan" means a written plan developed, maintained, and reviewed not less than quarterly by a registered nurse, with participation from other facility staff and the resident or his or her designee or legal representative, which includes a comprehensive assessment of the needs of an individual resident, *the type and frequency of services required to provide the necessary care for the resident to attain or maintain the highest practicable physical, mental, and psychosocial well-being,* a listing of services provided within or outside the facility to meet those needs, and an explanation of service goals. *The resident care plan must be signed by the director of nursing and the resident, the resident's designee, or the resident's legal representative.*

(18)~~(17)~~ "Resident designee" means a person, other than the owner, administrator, or employee of the facility, designated in writing by a resident or a resident's guardian, if the resident is adjudicated incompetent, to be the resident's representative for a specific, limited purpose.

(19)~~(18)~~ "State ombudsman council" means the State Long-Term Care Ombudsman Council established pursuant to s. 400.0067.

(20) "Voluntary board member" means a director of a not-for-profit corporation or organization who serves solely in a voluntary capacity for the corporation or organization, does not receive any remuneration for his or her services on the board of directors, and has no financial interest in the corporation or organization. The agency shall recognize a person as a voluntary board member following submission of a statement to the agency by the director and the not-for-profit corporation or organization which affirms that the director conforms to this definition. The statement affirming the status of the director must be submitted to the agency on a form provided by the agency.

Section 3. *The Agency for Health Care Administration and the Office of the Attorney General shall jointly study the potential use of electronic monitoring devices in nursing home facilities licensed under part II of chapter 400, Florida Statutes. The study shall include, but not be limited to, a review of the current use of electronic monitoring devices by nursing home facilities and their residents and other health care facilities, an analysis of other state laws and proposed legislation related to the mandated use of electronic monitoring devices in nursing home facilities, an analysis of the potential ramifications of requiring facilities to install such devices when requested by or on behalf of a resident, the impact of the devices on the privacy and dignity of both the resident on whose behalf the device is installed and other residents who may be affected by the device, the potential impact on improving the care of residents, the potential impact on the care environment and on staff recruitment and retention, appropriate uses of any tapes if mandated by law, including methods and time frames for reporting any questionable incidents to the facility and appropriate regulatory agencies, appropriate security needed to protect the integrity of tapes for both the protection of the resident and direct care staff, and the potential ramifications on the care environment of allowing the use of recorded tapes in legal proceedings, including any exceptions that should apply if prohibited. The Agency for Health Care Administration shall have the lead on the study and shall submit the findings and recommendations of the study to the Governor, the Speaker of the House of Representatives and the President of the Senate by January 1, 2002.*

Section 4. Effective May 15, 2001, and applying to causes of action accruing on or after that date, section 400.023, Florida Statutes, is amended to read:

400.023 Civil enforcement.—

(1) Any resident whose rights as specified in this part are *violated* ~~deprived or infringed upon~~ shall have a cause of action ~~against any licensee responsible for the violation~~. The action may be brought by the resident or his or her guardian, by a person or organization acting on behalf of a resident with the consent of the resident or his or her guardian, or by the personal representative of the estate of a deceased resident *regardless of the cause of death. If the action alleges a claim for the resident's rights or for negligence that caused the death of the resident, the claimant shall be required to elect either survival damages pursuant to s. 46.021 or wrongful death damages pursuant to s. 768.21* ~~when the cause of death resulted from the deprivation or infringement of the decedent's rights~~. *If the action alleges a claim for the resident's rights or for negligence that did not cause the death of the resident, the personal representative of the estate may recover damages for the negligence that caused injury to the resident.* The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for any *violation of* ~~deprivation or infringement on~~ the rights of a resident *or for negligence. Any resident who prevails in seeking injunctive relief or a claim for an administrative remedy is entitled to recover the costs of the action, and a reasonable attorney's fee assessed against the defendant not to exceed $25,000. Fees shall be awarded solely for the injunctive or administrative relief and not for any claim or action for damages whether such claim or action is brought together with a request for an injunction or administrative relief or as a separate action, except as provided under s. 768.79 or the Florida Rules of Civil Procedure. Sections 400.023-400.0238 provide the exclusive remedy for a cause of action for recovery of damages for the personal injury or death of a nursing home resident arising out of negligence or a violation of rights specified in s. 400.022. This section does not preclude theories of recovery not arising out of negligence or s. 400.022 which are available to a resident or to the agency. The provisions of chapter 766 do not apply to any cause of action brought under ss. 400.023-400.0238.* ~~Any plaintiff who prevails in any such action may be entitled to recover reasonable attorney's fees, costs of the action, and damages, unless the court finds that the plaintiff has acted in bad faith, with malicious purpose, and that there was a complete absence of a justiciable issue of either law or fact. A prevailing defendant may be entitled to recover reasonable attorney's fees pursuant to s. 57.105. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident and to the agency.~~

(2) In any claim brought pursuant to this part alleging a violation of resident's rights or negligence causing injury to or the death of a resident, the claimant shall have the burden of proving, by a preponderance of the evidence, that:

(a) The defendant owed a duty to the resident;

(b) The defendant breached the duty to the resident;

(c) The breach of the duty is a legal cause of loss, injury, death or damage to the resident; and

(d) The resident sustained loss, injury, death or damage as a result of the breach.

Nothing in this part shall be interpreted to create strict liability. A violation of the rights set forth in s. 400.022 or in any other standard or guidelines specified in this part or in any applicable administrative standard or guidelines of this state or a federal regulatory agency shall be evidence of negligence but shall not be considered negligence per se.

~~(2) Attorneys' fees shall be based on the following criteria:~~

~~(a) The time and labor required;~~

~~(b) The novelty and difficulty of the questions;~~

~~(c) The skill requisite to perform the legal service properly;~~

~~(d) The preclusion of other employment by the attorney due to the acceptance of the case;~~

~~(e) The customary fee;~~

~~(f) Whether the fee is fixed or contingent;~~

~~(g) The amount involved or the results obtained;~~

~~(h) The experience, reputation, and ability of the attorneys;~~

~~(i) The costs expended to prosecute the claim;~~

~~(j) The type of fee arrangement between the attorney and the client;~~

~~(k) Whether the relevant market requires a contingency fee multiplier to obtain competent counsel;~~

~~(l) Whether the attorney was able to mitigate the risk of nonpayment in any way.~~

(3) In any claim brought pursuant to s. 400.023, a licensee, person or entity shall have a duty to exercise reasonable care. Reasonable care is that degree of care which a reasonably careful licensee, person or entity would use under like circumstances.

(4) In any claim for resident's rights violation or negligence by a nurse licensed under Part I of chapter 464, such nurse shall have the duty to exercise care consistent with the prevailing professional standard of care for a nurse. The prevailing professional standard of care for a nurse shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances is recognized as acceptable and appropriate by reasonably prudent similar nurses.

(5)~~(3)~~ A licensee shall not be liable for the medical negligence of any physician rendering care or treatment to the resident except for the *administrative* services of a medical director as required in this part. Nothing in this subsection shall be construed to protect a licensee*, person, or entity* from liability for failure to provide a resident with appropriate observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care by nursing staff.

(6) The resident or the resident's legal representative shall serve a copy of any complaint alleging in whole or in part a violation of any rights specified in this part to the Agency for Health Care Administration at the time of filing the initial complaint with the clerk of the court for the county in which the action is pursued. The requirement of providing a copy of the complaint to the agency does not impair the resident's legal rights or ability to seek relief for his or her claim.

(7) An action under this part for a violation of rights or negligence recognized herein is not a claim for medical malpractice, and the provision of s. 768.21(8) do not apply to a claim alleging death of the resident.

~~(4) Claimants alleging a deprivation or infringement of adequate and appropriate health care pursuant to s. 400.022(1)(k) which resulted in personal injury to or the death of a resident shall conduct an investigation which shall include a review by a licensed physician or registered nurse familiar with the standard of nursing care for nursing home residents pursuant to this part. Any complaint alleging such a deprivation or infringement shall be accompanied by a verified statement from the reviewer that there exists reason to believe that a deprivation or infringement occurred during the resident's stay at the nursing home. Such opinion shall be based on records or other information available at the time that suit is filed. Failure to provide records in accordance with the requirements of this chapter shall waive the requirement of the verified statement.~~

~~(5) For the purpose of this section, punitive damages may be awarded for conduct which is willful, wanton, gross or flagrant, reckless, or consciously indifferent to the rights of the resident.~~

~~(6) To recover attorney's fees under this section, the following conditions precedent must be met:~~

~~(a) Within 120 days after the filing of a responsive pleading or defensive motion to a complaint brought under this section and before trial, the parties or their designated representatives shall meet in mediation to discuss the issues of liability and damages in accordance with this paragraph for the purpose of an early resolution of the matter.~~

~~1. Within 60 days after the filing of the responsive pleading or defensive motion, the parties shall:~~

~~a. Agree on a mediator. If the parties cannot agree on a mediator, the defendant shall immediately notify the court, which shall appoint a mediator within 10 days after such notice.~~

~~b. Set a date for mediation.~~

~~c. Prepare an order for the court that identifies the mediator, the scheduled date of the mediation, and other terms of the mediation. Absent any disagreement between the parties, the court may issue the order for the mediation submitted by the parties without a hearing.~~

~~2. The mediation must be concluded within 120 days after the filing of a responsive pleading or defensive motion. The date may be extended only by agreement of all parties subject to mediation under this subsection.~~

~~3. The mediation shall be conducted in the following manner:~~

~~a. Each party shall ensure that all persons necessary for complete settlement authority are present at the mediation.~~

~~b. Each party shall mediate in good faith.~~

~~4. All aspects of the mediation which are not specifically established by this subsection must be conducted according to the rules of practice and procedure adopted by the Supreme Court of this state.~~

~~(b) If the parties do not settle the case pursuant to mediation, the last offer of the defendant made at mediation shall be recorded by the mediator in a written report that states the amount of the offer, the date the offer was made in writing, and the date the offer was rejected. If the matter subsequently proceeds to trial under this section and the plaintiff prevails but is awarded an amount in damages, exclusive of attorney's fees, which is equal to or less than the last offer made by the defendant at mediation, the plaintiff is not entitled to recover any attorney's fees.~~

~~(c) This subsection applies only to claims for liability and damages and does not apply to actions for injunctive relief.~~

~~(d) This subsection applies to all causes of action that accrue on or after October 1, 1999.~~

~~(7) Discovery of financial information for the purpose of determining the value of punitive damages may not be had unless the plaintiff shows the court by proffer or evidence in the record that a reasonable basis exists to support a claim for punitive damages.~~

~~(8) In addition to any other standards for punitive damages, any award of punitive damages must be reasonable in light of the actual harm suffered by the resident and the egregiousness of the conduct that caused the actual harm to the resident.~~

Section 5. Effective May 15, 2001, and applying to causes of action accruing on or after that date, section 400.0233, Florida Statutes, is created to read:

400.0233 Presuit notice; investigation; notification of violation of resident's rights or alleged negligence; claims evaluation procedure; informal discovery; review.—

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

(a) "Claim for resident's rights violation or negligence" means a negligence claim alleging injury to or the death of a resident arising out of an asserted violation of the rights of a resident under s. 400.022 or an asserted deviation from the applicable standard of care.

(b) "Insurer" means any self-insurer authorized under s. 627.357, liability insurance carrier, Joint Underwriting Association, or any uninsured prospective defendant.

(2) Prior to filing a claim for a violation of a resident's rights or a claim for negligence, a claimant alleging injury to or the death of a resident shall notify each prospective defendant by certified mail, return receipt requested, of an asserted violation of a resident's rights provided in s. 400.022 or deviation from the standard of care. Such notification shall include an identification of the rights the prospective defendant has violated and the negligence alleged to have caused the incident or incidents and a brief description of the injuries sustained by the resident which are reasonably identifiable at the time of notice. The notice shall contain a certificate of counsel that counsel's reasonable investigation gave rise to a good-faith belief that grounds exist for an action against each prospective defendant.

(3)(a) No suit may be filed for a period of 75 days after notice is mailed to any prospective defendant. During the 75-day period, the prospective defendants or their insurers shall conduct an evaluation of the claim to determine the liability of each defendant and to evaluate the damages of the claimants. Each defendant or insurer of the defendant shall have a procedure for the prompt evaluation of claims during the 75-day period. The procedure shall include one or more of the following:

1. Internal review by a duly qualified facility risk manager or claims adjuster;

2. Internal review by counsel for each prospective defendant;

3. A quality assurance committee authorized under any applicable state or federal statutes or regulations;

4. Any other similar procedure that fairly and promptly evaluates the claims.

Each defendant or insurer of the defendant shall evaluate the claim in good faith.

(b) At or before the end of the 75 days, the defendant or insurer of the defendant shall provide the claimant with a written response:

1. Rejecting the claim; or

2. Making a settlement offer.

(c) The response shall be delivered to the claimant if not represented by counsel or to the claimant's attorney, by certified mail, return receipt requested. Failure of the prospective defendant or insurer of the defendant to reply to the notice within 75 days after receipt shall be deemed a rejection of the claim for purposes of this section.

(4) The notification of a violation of a resident's rights or alleged negligence shall be served within the applicable statute of limitations period; however, during the 75-day period, the statute of limitations is tolled as to all prospective defendants. Upon stipulation by the parties, the 75-day period may be extended and the statute of limitations is tolled during any such extension. Upon receiving written notice by certified mail, return receipt requested, of termination of negotiations in an extended period, the claimant shall have 60 days or the remainder of the period of the statute of limitations, whichever is greater, within which to file suit.

(5) No statement, discussion, written document, report, or other work product generated by presuit claims evaluation procedures under this section is discoverable or admissible in any civil action for any purpose by the opposing party. All participants, including, but not limited to, physicians, investigators, witnesses, and employees or associates of the defendant, are immune from civil liability arising from participation in the presuit claims evaluation procedure. Any licensed physician or registered nurse may be retained by either party to provide an opinion regarding the reasonable basis of the claim. The presuit opinions of the expert are not discoverable or admissible in any civil action for any purpose by the opposing party.

(6) Upon receipt by a prospective defendant of a notice of claim, the parties shall make discoverable information available without formal discovery as provided in subsection (7).

(7) Informal discovery may be used by a party to obtain unsworn statements and the production of documents or things as follows:

(a) Unsworn statements.—Any party may require other parties to appear for the taking of an unsworn statement. Such statements may be used only for the purpose of claims evaluation and are not discoverable or admissible in any civil action for any purpose by any party. A party seeking to take the unsworn statement of any party must give reasonable notice in writing to all parties. The notice must state the time and place for taking the statement and the name and address of the party to be examined. Unless otherwise impractical, the examination of any party must be done at the same time by all other parties. Any party may be represented by counsel at the taking of an unsworn statement. An unsworn statement may be recorded electronically, stenographically, or on videotape. The taking of unsworn statements is subject to the provisions of the Florida Rules of Civil Procedure and may be terminated for abuses.

(b) Documents or things.—Any party may request discovery of relevant documents or things. The documents or things must be produced, at the expense of the requesting party, within 20 days after the date of receipt of the request. A party is required to produce relevant and discoverable documents or things within that party's possession or control, if in good faith it can reasonably be done within the timeframe of the claims evaluation process.

(8) Each request for and notice concerning informal discovery pursuant to this section must be in writing, and a copy thereof must be sent to all parties. Such a request or notice must bear a certificate of service identifying the name and address of the person to whom the request or notice is served, the date of the request or notice, and the manner of service thereof.

(9) If a prospective defendant makes a written settlement offer, the claimant shall have 15 days from the date of receipt to accept the offer. An offer shall be deemed rejected unless accepted by delivery of a written notice of acceptance.

(10) To the extent not inconsistent with this part, the provisions of the Florida Mediation Code, Florida Rules of Civil Procedure, shall be applicable to such proceedings.

(11) Within 30 days after the claimant's receipt of the defendant's response to the claim, the parties or their designated representatives shall meet in mediation to discuss the issues of liability and damages in accordance with the mediation rules of practice and procedures adopted by the Supreme Court. Upon stipulation of the parties, this 30-day period may be extended and the statute of limitations is tolled during the mediation and any such extension. At the conclusion of mediation the claimant shall have 60 days or the remainder of the period of the statute of limitations, whichever is greater, within which to file suit.

Section 6. Effective May 15, 2001, and applying to causes of action accruing on or after that date, section 400.0234, Florida Statutes, is created to read:

400.0234 Availability of facility records for investigation of resident's rights violations and defenses; penalty.—

(1) Failure to provide complete copies of a resident's records including, but not limited to, all medical records and the resident's chart, within the control or possession of the facility in accordance with s. 400.145 shall constitute evidence of failure of that party to comply with good-faith discovery requirements and shall waive the good-faith certificate and presuit notice requirements under this part by the requesting party.

(2) No facility shall be held liable for any civil damages as a result of complying with this section.

Section 7. Effective May 15, 2001, and applying to causes of action accruing on or after that date, section 400.0235, Florida Statutes, is created to read:

400.0235 Certain provisions not applicable to actions under this part.—An action under this part for a violation of rights or negligence

recognized under this part is not a claim for medical malpractice, and the provisions of s. 768.21(8) do not apply to a claim alleging death of the resident.

Section 8. Effective May 15, 2001, section 400.0236, Florida Statutes, is created to read:

400.0236 Statute of limitations.—

(1) Any action for damages brought under this part shall be commenced within 2 years from the time the incident giving rise to the action occurred or within 2 years from the time the incident is discovered or should have been discovered with the exercise of due diligence; however, in no event shall the action be commenced later than 4 years from the date of the incident or occurrence out of which the cause of action accrued.

(2) In those actions covered by this subsection in which it can be shown that fraudulent concealment or intentional misrepresentation of fact prevented the discovery of the injury, the period of limitations is extended forward 2 years from the time that the injury is discovered with the exercise of due diligence, but in no event for more than 6 years from the date the incident giving rise to the injury occurred.

(3) This section shall apply to causes of action that have accrued prior to the effective date of this section; however, any such cause of action that would not have been barred under prior law may be brought within the time allowed by prior law or within 2 years after the effective date of this section, whichever is earlier, and will be barred thereafter. In actions where it can be shown that fraudulent concealment or intentional misrepresentation of fact prevented the discovery of the injury, the period of limitations is extended forward 2 years from the time that the injury is discovered with the exercise of due diligence but in no event more than 4 years from the effective date of this section.

Section 9. Section 400.0237, Florida Statutes, is created to read:

400.0237 Punitive damages; pleading; burden of proof.—

(1) In any action for damages brought under this part, no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages. The claimant may move to amend her or his complaint to assert a claim for punitive damages as allowed by the rules of civil procedure. The rules of civil procedure shall be liberally construed so as to allow the claimant discovery of evidence which appears reasonably calculated to lead to admissible evidence on the issue of punitive damages. No discovery of financial worth shall proceed until after the pleading concerning punitive damages is permitted.

(2) A defendant may be held liable for punitive damages only if the trier of fact, based on clear and convincing evidence, finds that the defendant was personally guilty of intentional misconduct or gross negligence. As used in this section, the term:

(a) "Intentional misconduct" means that the defendant had actual knowledge of the wrongfulness of the conduct and the high probability that injury or damage to the claimant would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury or damage.

(b) "Gross negligence" means that the defendant's conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct.

(3) In the case of an employer, principal, corporation, or other legal entity, punitive damages may be imposed for the conduct of an employee or agent only if the conduct of the employee or agent meets the criteria specified in subsection (2) and:

(a) The employer, principal, corporation, or other legal entity actively and knowingly participated in such conduct;

(b) The officers, directors, or managers of the employer, principal, corporation, or other legal entity condoned, ratified, or consented to such conduct; or

(c) The employer, principal, corporation, or other legal entity engaged in conduct that constituted gross negligence and that contributed to the loss, damages, or injury suffered by the claimant.

(4) The plaintiff must establish at trial, by clear and convincing evidence, its entitlement to an award of punitive damages. The "greater weight of the evidence" burden of proof applies to a determination of the amount of damages.

(5) This section is remedial in nature and shall take effect upon becoming a law.

Section 10. Section 400.0238, Florida Statutes, is created to read:

400.0238 Punitive damages; limitation.—

(1)(a) Except as provided in paragraphs (b) and (c), an award of punitive damages may not exceed the greater of:

1. Three times the amount of compensatory damages awarded to each claimant entitled thereto, consistent with the remaining provisions of this section; or

2. The sum of $1 million.

(b) Where the fact finder determines that the wrongful conduct proven under this section was motivated primarily by unreasonable financial gain and determines that the unreasonably dangerous nature of the conduct, together with the high likelihood of injury resulting from the conduct, was actually known by the managing agent, director, officer, or other person responsible for making policy decisions on behalf of the defendant, it may award an amount of punitive damages not to exceed the greater of:

1. Four times the amount of compensatory damages awarded to each claimant entitled thereto, consistent with the remaining provisions of this section; or

2. The sum of $4 million.

(c) Where the fact finder determines that at the time of injury the defendant had a specific intent to harm the claimant and determines that the defendant's conduct did in fact harm the claimant, there shall be no cap on punitive damages.

(d) This subsection is not intended to prohibit an appropriate court from exercising its jurisdiction under s. 768.74 in determining the reasonableness of an award of punitive damages that is less than three times the amount of compensatory damages.

(e) In any case in which the findings of fact support an award of punitive damages pursuant to paragraph (b) or paragraph (c), the clerk of the court shall refer the case to the appropriate law enforcement agencies, to the state attorney in the circuit where the long-term care facility that is the subject of the underlying civil cause of action is located, and, for multijurisdictional facility owners, to the Office of the Statewide Prosecutor; and such agencies, state attorney, or Office of the Statewide Prosecutor shall initiate a criminal investigation into the conduct giving rise to the award of punitive damages. All findings by the trier of fact which support an award of punitive damages under this paragraph shall be admissible as evidence in any subsequent civil or criminal proceeding relating to the acts giving rise to the award of punitive damages under this paragraph.

(2) The claimant's attorney's fees, if payable from the judgment, are, to the extent that the fees are based on the punitive damages, calculated based on the final judgment for punitive damages. This subsection does not limit the payment of attorney's fees based upon an award of damages other than punitive damages.

(3) The jury may neither be instructed nor informed as to the provisions of this section.

(4) Notwithstanding any other law to the contrary, the amount of punitive damages awarded pursuant to this section shall be equally divided between the claimant and the Quality of Long-Term Care Facility Improvement Trust Fund, in accordance with the following provisions:

(a) The clerk of the court shall transmit a copy of the jury verdict to the State Treasurer by certified mail. In the final judgment the court shall order the percentages of the award, payable as provided herein.

(b) A settlement agreement entered into between the original parties to the action after a verdict has been returned must provide a proportionate share payable to the Quality of Long-Term Care Facility Improvement Trust Fund specified herein. For purposes of this paragraph, a proportionate share is a 50-percent share of that percentage of the settlement amount which the punitive damages portion of the verdict bore to the total of the compensatory and punitive damages in the verdict.

(c) The Department of Banking and Finance shall collect or cause to be collected all payments due the state under this section. Such payments are made to the Comptroller and deposited in the appropriate fund specified in this subsection.

(d) If the full amount of punitive damages awarded cannot be collected, the claimant and the other recipient designated pursuant to this subsection are each entitled to a proportionate share of the punitive damages collected.

(5) This section is remedial in nature and shall take effect upon becoming a law.

Section 11. Subsection (1) and paragraph (a) of subsection (2) of section 768.735, Florida Statutes, are amended and subsection (3) is added to that section to read:

768.735 Punitive damages; exceptions; limitation.—

(1) Sections 768.72(2)-(4), 768.725, and 768.73 do not apply to any civil action based upon child abuse, abuse of the elderly *under chapter 415*, or abuse of the developmentally disabled ~~or any civil action arising under chapter 400~~. Such actions are governed by applicable statutes and controlling judicial precedent. *This section does not apply to claims brought pursuant to s. 400.023 or s. 400.429.*

(2)(a) In any civil action based upon child abuse, abuse of the elderly *under chapter 415*, or abuse of the developmentally disabled, ~~or actions arising under chapter 400~~ and involving the award of punitive damages, the judgment for the total amount of punitive damages awarded to a claimant may not exceed three times the amount of compensatory damages awarded to each person entitled thereto by the trier of fact, except as provided in paragraph (b). This subsection does not apply to any class action.

(3) This section is remedial in nature and shall take effect upon becoming a law.

Section 12. Effective May 15, 2001, and applying to causes of action accruing on or after that date, section 415.1111, Florida Statutes, is amended to read:

415.1111 Civil actions.—A vulnerable adult who has been abused, neglected, or exploited as specified in this chapter has a cause of action against any perpetrator and may recover actual and punitive damages for such abuse, neglect, or exploitation. The action may be brought by the vulnerable adult, or that person's guardian, by a person or organization acting on behalf of the vulnerable adult with the consent of that person or that person's guardian, or by the personal representative of the estate of a deceased victim without regard to whether the cause of death resulted from the abuse, neglect, or exploitation. The action may be brought in any court of competent jurisdiction to enforce such action and to recover actual and punitive damages for any deprivation of or infringement on the rights of a vulnerable adult. A party who prevails in any such action may be entitled to recover reasonable attorney's fees, costs of the action, and damages. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a vulnerable adult. *Notwithstanding the foregoing, any civil action for damages against any licensee or entity who establishes, controls, conducts, manages, or operates a facility licensed under part II of chapter 400 relating to its operation of the licensed facility shall be brought pursuant to s. 400.023, or against any licensee or entity who establishes, controls, conducts, manages, or operates a facility licensed under part III of chapter 400 relating to its operation of the licensed facility shall be brought pursuant to s. 400.429. Such licensee or entity shall not be vicariously liable for the acts or omissions of its employees or agents or any other third party in an action brought under this section.*

Section 13. Subsection (17) is added to section 400.0255, Florida Statutes, to read:

400.0255 Resident transfer or discharge; requirements and procedures; hearings.—

(17) The provisions of this section apply to transfers or discharges that are initiated by the nursing home facility, and not by the resident or by the resident's physician or legal guardian or representative.

Section 14. Subsection (3) of section 400.062, Florida Statutes, is amended to read:

400.062 License required; fee; disposition; display; transfer.—

(3) The annual license fee required for each license issued under this part shall be comprised of two parts. Part I of the license fee shall be the basic license fee. The rate per bed for the basic license fee shall be established annually and *shall be $50 per bed. The agency may adjust the per bed licensure fees by the Consumer Price Index based on the 12 months immediately preceding the increase* ~~must be reasonably calculated~~ to cover the cost of regulation under this part~~, but may not exceed $35 per bed~~. Part II of the license fee shall be the resident protection fee, which shall be at the rate of not less than 25 cents per bed. The rate per bed shall be the minimum rate per bed, and such rate shall remain in effect until the effective date of a rate per bed adopted by rule by the agency pursuant to this part. At such time as the amount on deposit in the Resident Protection Trust Fund is less than *$1 million* ~~$500,000~~, the agency may adopt rules to establish a rate which may not exceed $10 per bed. The rate per bed shall revert back to the minimum rate per bed when the amount on deposit in the Resident Protection Trust Fund reaches *$1 million* ~~$500,000~~, except that any rate established by rule shall remain in effect until such time as the rate has been equally required for each license issued under this part. Any amount in the fund in excess of *$2 million* ~~$800,000~~ shall revert to the Health Care Trust Fund and may not be expended without prior approval of the Legislature. The agency may prorate the annual license fee for those licenses which it issues under this part for less than 1 year. Funds generated by license fees collected in accordance with this section shall be deposited in the following manner:

(a) The basic license fee collected shall be deposited in the Health Care Trust Fund, established for the sole purpose of carrying out this part. When the balance of the account established in the Health Care Trust Fund for the deposit of fees collected as authorized under this section exceeds one-third of the annual cost of regulation under this part, the excess shall be used to reduce the licensure fees in the next year.

(b) The resident protection fee collected shall be deposited in the Resident Protection Trust Fund for the sole purpose of paying, in accordance with the provisions of s. 400.063, for the appropriate alternate placement, care, and treatment of a resident removed from a nursing home facility on a temporary, emergency basis or for the maintenance and care of residents in a nursing home facility pending removal and alternate placement.

Section 15. Subsections (2) and (5) of section 400.071, Florida Statutes, are amended, and subsections (11) and (12) are added to that section, to read:

400.071 Application for license.—

(2) The application shall be under oath and shall contain the following:

(a) The name, address, and social security number of the applicant if an individual; if the applicant is a firm, partnership, or association, its name, address, and employer identification number (EIN), and the

name and address of *any controlling interest* ~~every member; if the applicant is a corporation, its name, address, and employer identification number (EIN), and the name and address of its director and officers and of each person having at least a 5 percent interest in the corporation~~; and the name by which the facility is to be known.

(b) The name of any person whose name is required on the application under the provisions of paragraph (a) and who owns at least a 10 percent interest in any professional service, firm, association, partnership, or corporation providing goods, leases, or services to the facility for which the application is made, and the name and address of the professional service, firm, association, partnership, or corporation in which such interest is held.

(c) The location of the facility for which a license is sought and an indication, as in the original application, that such location conforms to the local zoning ordinances.

(d) The name of the person or persons under whose management or supervision the facility will be conducted and the name of *the* ~~its licensed~~ administrator.

(e) A signed affidavit disclosing any financial or ownership interest that a person or entity described in paragraph (a) or paragraph (d) has held in the last 5 years in any entity licensed by this state or any other state to provide health or residential care which has closed voluntarily or involuntarily; has filed for bankruptcy; has had a receiver appointed; has had a license denied, suspended, or revoked; or has had an injunction issued against it which was initiated by a regulatory agency. The affidavit must disclose the reason any such entity was closed, whether voluntarily or involuntarily.

(f)~~(e)~~ The total number of beds and the total number of Medicare and Medicaid certified beds.

(g)~~(f)~~ Information relating to the number, experience, and training of the employees of the facility and of the moral character of the applicant and employees which the agency requires by rule, including the name and address of any nursing home with which the applicant or employees have been affiliated through ownership or employment within 5 years of the date of the application for a license and the record of any criminal convictions involving the applicant and any criminal convictions involving an employee if known by the applicant after inquiring of the employee. The applicant must demonstrate that sufficient numbers of qualified staff, by training or experience, will be employed to properly care for the type and number of residents who will reside in the facility.

(h)~~(g)~~ Copies of any civil verdict or judgment involving the applicant rendered within the 10 years preceding the application, relating to medical negligence, violation of residents' rights, or wrongful death. As a condition of licensure, the licensee agrees to provide to the agency copies of any new verdict or judgment involving the applicant, relating to such matters, within 30 days after filing with the clerk of the court. The information required in this paragraph shall be maintained in the facility's licensure file and in an agency database which is available as a public record.

(5) The applicant shall furnish satisfactory proof of financial ability to operate and conduct the *nursing* home in accordance with the requirements of this part and all rules adopted under this part, and the agency shall establish standards for this purpose*, including information reported under paragraph (2)(e)*. The agency also shall establish documentation requirements, to be completed by each applicant, that show anticipated facility revenues and expenditures, the basis for financing the anticipated cash-flow requirements of the facility, and an applicant's access to contingency financing.

(11) The agency may issue an inactive license to a nursing home that will be temporarily unable to provide services but that is reasonably expected to resume services. Such designation may be made for a period not to exceed 12 months but may be renewed by the agency for up to 6 additional months. Any request by a licensee that a nursing home become inactive must be submitted to the agency and approved by the agency prior to initiating any suspension of service or notifying residents. Upon agency approval, the nursing home shall notify residents of any necessary discharge or transfer as provided in s. 400.0255.

(12) As a condition of licensure, each facility must establish and submit with its application a plan for quality assurance and for conducting risk management.

Section 16. Subsection (1) of section 400.102, Florida Statutes, is amended to read:

400.102 Action by agency against licensee; grounds.—

(1) Any of the following conditions shall be grounds for action by the agency against a licensee:

(a) An intentional or negligent act materially affecting the health or safety of residents of the facility;

(b) Misappropriation or conversion of the property of a resident of the facility;

(c) Failure to follow the criteria and procedures provided under part I of chapter 394 relating to the transportation, voluntary admission, and involuntary examination of a nursing home resident;

(d) Violation of provisions of this part or rules adopted under this part; ~~or~~

(e) Fraudulent altering, defacing, or falsifying any medical or nursing home records, or causing or procuring any of these offenses to be committed; or

(f)~~(e)~~ Any act constituting a ground upon which application for a license may be denied.

Section 17. Subsections (3) and (4) are added to section 400.111, Florida Statutes, to read:

400.111 Expiration of license; renewal.—

(3) The agency may not renew a license if the applicant has failed to pay any fines assessed by final order of the agency or final order of the Health Care Financing Administration under requirements for federal certification. The agency may renew the license of an applicant following the assessment of a fine by final order if such fine has been paid into an escrow account pending an appeal of a final order.

(4) The licensee shall submit a signed affidavit disclosing any financial or ownership interest that a licensee has held within the last 5 years in any entity licensed by the state or any other state to provide health or residential care which entity has closed voluntarily or involuntarily; has filed for bankruptcy; has had a receiver appointed; has had a license denied, suspended, or revoked; or has had an injunction issued against it which was initiated by a regulatory agency. The affidavit must disclose the reason such entity was closed, whether voluntarily or involuntarily.

Section 18. Subsection (2) of section 400.118, Florida Statutes, is amended to read:

400.118 Quality assurance; early warning system; monitoring; rapid response teams.—

(2)(a) The agency shall establish within each district office one or more quality-of-care monitors, based on the number of nursing facilities in the district, to monitor all nursing facilities in the district on a regular, unannounced, aperiodic basis, including nights, evenings, weekends, and holidays. *Quality-of-care monitors shall visit each nursing facility at least quarterly.* Priority for *additional* monitoring visits shall be given to nursing facilities with a history of *resident* ~~patient~~ care deficiencies. Quality-of-care monitors shall be registered nurses who are trained and experienced in nursing facility regulation, standards of practice in long-term care, and evaluation of patient care. Individuals in these positions shall not be deployed by the agency as a part of the district survey team in the conduct of routine, scheduled surveys, but shall function solely and independently as quality-of-care monitors. Quality-of-care monitors shall assess the overall quality of life

in the nursing facility and shall assess specific conditions in the facility directly related to *resident* ~~patient~~ care*, including the operations of internal quality improvement and risk management programs and adverse incident reports*. The quality-of-care monitor shall include in an assessment visit observation of the care and services rendered to residents and formal and informal interviews with residents, family members, facility staff, resident guests, volunteers, other regulatory staff, and representatives of a long-term care ombudsman council or Florida advocacy council.

(b) Findings of a monitoring visit, both positive and negative, shall be provided orally and in writing to the facility administrator or, in the absence of the facility administrator, to the administrator on duty or the director of nursing. The quality-of-care monitor may recommend to the facility administrator procedural and policy changes and staff training, as needed, to improve the care or quality of life of facility residents. Conditions observed by the quality-of-care monitor which threaten the health or safety of a resident shall be reported immediately to the agency area office supervisor for appropriate regulatory action and, as appropriate or as required by law, to law enforcement, adult protective services, or other responsible agencies.

(c) Any record, whether written or oral, or any written or oral communication generated pursuant to paragraph (a) or paragraph (b) shall not be subject to discovery or introduction into evidence in any civil or administrative action against a nursing facility arising out of matters which are the subject of quality-of-care monitoring, and a person who was in attendance at a monitoring visit or evaluation may not be permitted or required to testify in any such civil or administrative action as to any evidence or other matters produced or presented during the monitoring visits or evaluations. However, information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such civil or administrative action merely because they were presented during monitoring visits or evaluations, and any person who participates in such activities may not be prevented from testifying as to matters within his or her knowledge, but such witness may not be asked about his or her participation in such activities. The exclusion from the discovery or introduction of evidence in any civil or administrative action provided for herein shall not apply when the quality-of-care monitor makes a report to the appropriate authorities regarding a threat to the health or safety of a resident.

Section 19. Section 400.1183, Florida Statutes, is created to read:

400.1183 Resident grievance procedures.—

(1) Every nursing home must have a grievance procedure available to its residents and their families. The grievance procedure must include:

(a) An explanation of how to pursue redress of a grievance.

(b) The names, job titles, and telephone numbers of the employees responsible for implementing the facility's grievance procedure. The list must include the address and the toll-free telephone numbers of the ombudsman and the agency.

(c) A simple description of the process through which a resident may, at any time, contact the toll-free telephone hotline of the ombudsman or the agency to report the unresolved grievance.

(d) A procedure for providing assistance to residents who cannot prepare a written grievance without help.

(2) Each facility shall maintain records of all grievances and shall report annually to the agency the total number of grievances handled, a categorization of the cases underlying the grievances, and the final disposition of the grievances.

(3) Each facility must respond to the grievance within a reasonable time after its submission.

(4) The agency may investigate any grievance at any time.

(5) The agency may impose an administrative fine, in accordance with s. 400.121, against a nursing home facility for noncompliance with this section.

Section 20. Section 400.121, Florida Statutes, is amended to read:

400.121 Denial, suspension, revocation of license; moratorium on admissions; administrative fines; procedure; order to increase staffing.—

(1) The agency may deny *an application*, revoke~~,~~ or suspend a license*,* or impose an administrative fine, not to exceed $500 per violation per day, *against any applicant or licensee for the following violations by the applicant, licensee, or other controlling interest:* ~~for~~

(a) A violation of any provision of s. 400.102(1)*;*~~.~~

(b) A demonstrated pattern of deficient practice;

(c) Failure to pay any outstanding fines assessed by final order of the agency or final order of the Health Care Financing Administration pursuant to requirements for federal certification. The agency may renew or approve the license of an applicant following the assessment of a fine by final order if such fine has been paid into an escrow account pending an appeal of a final order;

(d) Exclusion from the Medicare or Medicaid program; or

(e) An adverse action by a regulatory agency against any other licensed facility that has a common controlling interest with the licensee or applicant against whom the action under this section is being brought. If the adverse action involves solely the management company, the applicant or licensee shall be given 30 days to remedy before final action is taken. If the adverse action is based solely upon actions by a controlling interest, the applicant or licensee may present factors in mitigation of any proposed penalty based upon a showing that such penalty is inappropriate under the circumstances.

All hearings shall be held within the county in which the licensee or applicant operates or applies for a license to operate a facility as defined herein.

(2) *Except as provided in s. 400.23(8), a $500 fine shall be imposed* ~~The agency, as a part of any final order issued by it under this part, may impose such fine as it deems proper, except that such fine may not exceed $500~~ for each violation. Each day a violation of this part occurs constitutes a separate violation and is subject to a separate fine, but in no event may any fine aggregate more than $5,000. A fine may be levied pursuant to this section in lieu of and notwithstanding the provisions of s. 400.23. Fines paid ~~by any nursing home facility licensee under this subsection~~ shall be deposited in the Resident Protection Trust Fund and expended as provided in s. 400.063.

(3) The agency shall revoke or deny a nursing home license if the licensee or controlling interest operates a facility in this state that:

(a) Has had two moratoria imposed by final order for substandard quality of care, as defined by Title 42, C.F.R. part 483, within any 30-month period;

(b) Is conditionally licensed for 180 or more continuous days;

(c) Is cited for two class I deficiencies arising from unrelated circumstances during the same survey or investigation; or

(d) Is cited for two class I deficiencies arising from separate surveys or investigations within a 30-month period.

The licensee may present factors in mitigation of revocation, and the agency may make a determination not to revoke a license based upon a showing that revocation is inappropriate under the circumstances.

(4)~~(3)~~ The agency may issue an order immediately suspending or revoking a license when it determines that any condition in the facility presents a danger to the health, safety, or welfare of the residents in the facility.

(5)~~(4)~~(a) The agency may impose an immediate moratorium on admissions to any facility when the agency determines that any condition in the facility presents a threat to the health, safety, or welfare of the residents in the facility.

(b) Where the agency has placed a moratorium on admissions on any facility two times within a 7-year period, the agency may suspend the license of the nursing home and the facility's management company, if any. ~~The licensee shall be afforded an administrative hearing within 90 days after the suspension to determine whether the license should be revoked.~~ During the suspension, the agency shall take the facility into receivership and shall operate the facility.

(6)~~(5)~~ An action taken by the agency to deny, suspend, or revoke a facility's license under this part~~, in which the agency claims that the facility owner or an employee of the facility has threatened the health, safety, or welfare of a resident of the facility,~~ shall be heard by the Division of Administrative Hearings of the Department of Management Services within *60* ~~120~~ days after *the assignment of an administrative law judge* ~~receipt of the facility's request for a hearing~~, unless the time limitation is waived by both parties. The administrative law judge must render a decision within 30 days after receipt of a proposed recommended order. ~~This subsection does not modify the requirement that an administrative hearing be held within 90 days after a license is suspended under paragraph (4)(b).~~

(7)~~(6)~~ The agency is authorized to require a facility to increase staffing beyond the minimum required by law, if the agency has taken administrative action against the facility for care-related deficiencies directly attributable to insufficient staff. Under such circumstances, the facility may request an expedited interim rate increase. The agency shall process the request within 10 days after receipt of all required documentation from the facility. A facility that fails to maintain the required increased staffing is subject to a fine of $500 per day for each day the staffing is below the level required by the agency.

(8) An administrative proceeding challenging an action taken by the agency pursuant to this section shall be reviewed on the basis of the facts and conditions that resulted in such agency action.

(9) Notwithstanding any other provision of law to the contrary, agency action in an administrative proceeding under this section may be overcome by the licensee upon a showing by a preponderance of the evidence to the contrary.

(10) In addition to any other sanction imposed under this part, in any final order that imposes sanctions, the agency may assess costs related to the investigation and prosecution of the case. Payment of agency costs shall be deposited into the Health Care Trust Fund.

Section 21. Subsection (12) is added to section 400.126, Florida Statutes, to read:

400.126 Receivership proceedings.—

(12) Concurrently with the appointment of a receiver, the agency and the Department of Elderly Affairs shall coordinate an assessment of each resident in the facility by the Comprehensive Assessment and Review for Long-Term-Care (CARES) Program for the purpose of evaluating each resident's need for the level of care provided in a nursing facility and the potential for providing such care in alternative settings. If the CARES assessment determines that a resident could be cared for in a less restrictive setting or does not meet the criteria for skilled or intermediate care in a nursing home, the department and agency shall refer the resident for such care, as is appropriate for the resident. Residents referred pursuant to this subsection shall be given primary consideration for receiving services under the Community Care for the Elderly program in the same manner as persons classified to receive such services pursuant to s. 430.205.

Section 22. Subsections (14), (15), (16), (17), (18), (19), and (20) are added to section 400.141, Florida Statutes, to read:

400.141 Administration and management of nursing home facilities.—Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(14) Submit to the agency the information specified in s. 400.071(2)(e) for a management company within 30 days after the effective date of the management agreement.

(15) Submit semiannually to the agency, or more frequently if requested by the agency, information regarding facility staff-to-resident ratios, staff turnover, and staff stability, including information regarding certified nursing assistants, licensed nurses, the director of nursing, and the facility administrator. For purposes of this reporting:

(a) Staff-to-resident ratios must be reported in the categories specified in s. 400.23(3)(a) and applicable rules. The ratio must be reported as an average for the most recent calendar quarter.

(b) Staff turnover must be reported for the most recent 12-month period ending on the last workday of the most recent calendar quarter prior to the date the information is submitted. The turnover rate must be computed quarterly, with the annual rate being the cumulative sum of the quarterly rates. the turnover rate is the total number of terminations or separations experienced during the quarter, excluding any employee terminated during a probationary period of 3 months or less, divided by the total number of staff employed at the end of the period for which the rate is computed, and expressed as a percentage.

(c) The formula for determining staff stability is the total number of employees that have been employed for more than 12 months, divided by the total number of employees employed at the end of the most recent calendar quarter, and expressed as a percentage.

(d) A licensed facility shall impose a moratorium on new admissions to the facility during any period that the staff-to-resident ratio falls below the minimum required by the agency.

(16) Report monthly the number of vacant beds in the facility which are available for resident occupancy on the day the information is reported.

(17) Notify a licensed physician when a resident exhibits signs of dementia or cognitive impairment or has a change of condition in order to rule out the presence of an underlying physiological condition that may be contributing to such dementia or impairment. The notification must occur within 30 days after the acknowledgement of such signs by facility staff. If an underlying condition is determined to exist, the facility shall arrange, with the appropriate health care provider, the necessary care and services to treat the condition.

(18) If the facility implements a dining and hospitality attendant program, ensure that the program is developed and implemented under the supervision of the facility director of nursing. A licensed nurse, licensed speech or occupational therapist, or a registered dietitian must conduct training of dining and hospitality attendants. A person employed by a facility as a dining and hospitality attendant must perform tasks under the direct supervision of a licensed nurse.

(19) Report to the agency any filing for bankruptcy protection by the facility or its parent corporation, divestiture or spin-off of its assets, or corporate reorganization within 30 days after the completion of such activity.

(20) Maintain liability insurance coverage that is in force at all times.

(21) Maintain in the medical record for each resident a daily chart of certified nursing assistant services provided to the resident. The certified nursing assistant who is caring for the resident must complete this record by the end of his or her shift. This record must indicate assistance with activities of daily living, assistance with eating, and assistance with drinking, and must record each offering of nutrition and hydration for those residents whose plan of care or assessment indicates a risk for malnutrition or dehydration.

Facilities that have been awarded a Gold Seal under the program established in s. 400.235 may develop a plan to provide certified nursing assistant training as prescribed by federal regulations and state rules and may apply to the agency for approval of its program.

Section 23. Section 400.1413, Florida Statutes, is created to read:

400.1413 Volunteers in nursing homes.—

(1) It is the intent of the Legislature to encourage the involvement of volunteers in nursing homes in this state. The Legislature also acknowledges that the licensee is responsible for all the activities that take place in the nursing home and recognizes the licensee's need to be aware of and coordinate volunteer activities in the nursing home. Therefore, a nursing home may require that volunteers:

(a) Sign in and out with staff of the nursing home upon entering or leaving the facility.

(b) Wear an identification badge while in the building.

(c) Participate in a facility orientation and training program.

(2) This section does not affect the activities of state or local long-term-care ombudsman councils authorized under part I.

Section 24. Section 400.147, Florida Statutes, is created to read:

400.147 Internal risk management and quality assurance program.—

(1) Every facility shall, as part of its administrative functions, establish an internal risk management and quality assurance program, the purpose of which is to assess resident care practices; review facility quality indicators, facility incident reports, deficiencies cited by the agency, and resident grievances; and develop plans of action to correct and respond quickly to identified quality deficiencies. The program must include:

(a) A designated person to serve as risk manager, who is responsible for implementation and oversight of the facility's risk management and quality assurance program as required by this section.

(b) A risk management and quality assurance committee consisting of the facility risk manager, the administrator, the director of nursing, the medical director, and at least three other members of the facility staff. The risk management and quality assurance committee shall meet at least monthly.

(c) Policies and procedures to implement the internal risk management and quality assurance program, which must include the investigation and analysis of the frequency and causes of general categories and specific types of adverse incidents to residents.

(d) The development and implementation of an incident reporting system based upon the affirmative duty of all health care providers and all agents and employees of the licensed health care facility to report adverse incidents to the risk manager, or to his or her designee, within 3 business days after their occurrence.

(e) The development of appropriate measures to minimize the risk of adverse incidents to residents, including, but not limited to, education and training in risk management and risk prevention for all nonphysician personnel, as follows:

1. Such education and training of all nonphysician personnel must be part of their initial orientation; and

2. At least 1 hour of such education and training must be provided annually for all nonphysician personnel of the licensed facility working in clinical areas and providing resident care.

(f) The analysis of resident grievances that relate to resident care and the quality of clinical services.

(2) The internal risk management and quality assurance program is the responsibility of the facility administrator.

(3) In addition to the programs mandated by this section, other innovative approaches intended to reduce the frequency and severity of adverse incidents to residents and violations of residents' rights shall be encouraged and their implementation and operation facilitated.

(4) Each internal risk management and quality assurance program shall include the use of incident reports to be filed with the risk manager and the facility administrator. The risk manager shall have free access to all resident records of the licensed facility. The incident reports are part of the work papers of the attorney defending the licensed facility in litigation relating to the licensed facility and are subject to discovery, but are not admissible as evidence in court. A person filing an incident report is not subject to civil suit by virtue of such incident report. As a part of each internal risk management and quality assurance program, the incident reports shall be used to develop categories of incidents which identify problem areas. Once identified, procedures shall be adjusted to correct the problem areas.

(5) For purposes of reporting to the agency under this section, the term "adverse incident" means:

(a) An event over which facility personnel could exercise control and which is associated in whole or in part with the facility's intervention, rather than the condition for which such intervention occurred, and which results in one of the following:

1. Death;

2. Brain or spinal damage;

3. Permanent disfigurement;

4. Fracture or dislocation of bones or joints;

5. A limitation of neurological, physical, or sensory function;

6. Any condition that required medical attention to which the resident has not given his or her informed consent, including failure to honor advanced directives; or

7. Any condition that required the transfer of the resident, within or outside the facility, to a unit providing a more acute level of care due to the adverse incident, rather than the resident's condition prior to the adverse incident;

(b) Abuse, neglect, or exploitation as defined in s. 415.102;

(c) Abuse, neglect and harm as defined in s. 39.01;

(d) Resident elopement; or

(e) An event that is reported to law enforcement.

(6) The internal risk manager of each licensed facility shall:

(a) Investigate every allegation of sexual misconduct which is made against a member of the facility's personnel who has direct patient contact when the allegation is that the sexual misconduct occurred at the facility or at the grounds of the facility;

(b) Report every allegation of sexual misconduct to the administrator of the licensed facility; and

(c) Notify the resident representative or guardian of the victim that an allegation of sexual misconduct has been made and that an investigation is being conducted.

(7) The facility shall initiate an investigation and shall notify the agency within 1 business day after the risk manager or his or her designee has received a report pursuant to paragraph (1)(d). The notification must be made in writing and be provided electronically, by facsimile device or overnight mail delivery. The notification must include information regarding the identity of the affected resident, the type of adverse incident, the initiation of an investigation by the facility, and whether the events causing or resulting in the adverse incident represent a potential risk to any other resident. The notification is confidential as provided by law and is not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board. The agency may investigate, as it deems appropriate, any such incident and prescribe measures that must or may be taken in response to the incident. The agency shall review each incident and determine whether it potentially involved conduct by the health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply.

(8)(a) Each facility shall complete the investigation and submit an adverse incident report to the agency for each adverse incident within 15

calendar days after its occurrence. If after a complete investigation, the risk manager determines that the incident was not an adverse incident as defined in subsection (5), the facility shall include this information in the report. The agency shall develop a form for reporting this information.

(b) The information reported to the agency pursuant to paragraph (a) which relates to persons licensed under chapter 458, chapter 459, chapter 461, or chapter 466 shall be reviewed by the agency. The agency shall determine whether any of the incidents potentially involved conduct by a health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply.

(c) The report submitted to the agency must also contain the name of the risk manager of the facility.

(d) The adverse incident report is confidential as provided by law and is not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board.

(9) Each facility subject to this section shall report monthly any liability claim filed against it. The report must include the name of the resident, the date or dates of the incident leading to the claim, if applicable, and the type of injury or violation of rights alleged to have occurred. This report is confidential as provided by law and is not discoverable or admissible in any civil or administrative action, except in such actions brought by the agency to enforce the provisions of this part.

(10) The agency shall review, as part of its licensure inspection process, the internal risk management and quality assurance program at each facility regulated by this section to determine whether the program meets standards established in statutory laws and rules, is being conducted in a manner designed to reduce adverse incidents, and is appropriately reporting incidents as required by this section.

(11) There is no monetary liability on the part of, and a cause of action for damages may not arise against, any risk manager for the implementation and oversight of the internal risk management and quality assurance program in a facility licensed under this part as required by this section, or for any act or proceeding undertaken or performed within the scope of the functions of such internal risk management and quality assurance program if the risk manager acts without intentional fraud.

(12) If the agency, through its receipt of the adverse incident reports prescribed in subsection (7), or through any investigation, has a reasonable belief that conduct by a staff member or employee of a facility is grounds for disciplinary action by the appropriate regulatory board, the agency shall report this fact to the regulatory board.

(13) The agency may adopt rules to administer this section.

(14) The agency shall annually submit to the Legislature a report on nursing home adverse incidents. The report must include the following information arranged by county:

(a) The total number of adverse incidents.

(b) A listing, by category, of the types of adverse incidents, the number of incidents occurring within each category, and the type of staff involved.

(c) A listing, by category, of the types of injury caused and the number of injuries occurring within each category.

(d) Types of liability claims filed based on an adverse incident or reportable injury.

(e) Disciplinary action taken against staff, categorized by type of staff involved.

(15) Information gathered by a credentialing organization under a quality assurance program is not discoverable from the credentialing organization. This subsection does not limit discovery of, access to, or use of facility records, including those records from which the credentialing organization gathered its information.

Section 25. Section 400.148, Florida Statutes, is created to read:

400.148 Medicaid "Up-or-Out" Quality of Care Contract Management Program.—

(1) The Legislature finds that the federal Medicare program has implemented successful models of managing the medical and supportive-care needs of long-term nursing home residents. These programs have maintained the highest practicable level of good health and have the potential to reduce the incidence of preventable illnesses among long-stay residents of nursing homes, thereby increasing the quality of care for residents and reducing the number of lawsuits against nursing homes. Such models are operated at no cost to the state.

(2) The Agency for Health Care Administration shall develop a pilot project in selected counties to demonstrate the effect of assigning skilled and trained medical personnel to ensure the quality of care, safety, and continuity of care for long-stay Medicaid recipients in the highest scoring nursing homes in the Florida Nursing Home Guide on the date the project is implemented. The agency is authorized to begin the pilot project in the highest scoring homes in counties where Evercare services are immediately available. On January 1 of each year of the pilot project the agency shall submit to the fiscal and substantive committees of the Legislature and to the Governor an assessment of the program and a proposal for expansion of the program to additional facilities. The staff of the pilot project shall assist regulatory staff in imposing regulatory sanctions, including revocation of licensure, pursuant to s. 400.121, against nursing homes that have quality-of-care violations.

(3) The pilot project must ensure:

(a) Oversight and coordination of all aspects of a resident's medical care and stay in a nursing home.

(b) Facilitation of close communication between the resident, the resident's guardian or legal representative, the resident's attending physician, the resident's family, and staff of the nursing facility.

(c) Frequent onsite visits to the resident.

(d) Early detection of medical or quality problems that have the potential to lead to adverse outcomes and unnecessary hospitalization.

(e) Close communication with regulatory staff.

(f) Immediate investigation of resident quality-of-care complaints and communication and cooperation with the appropriate entity to address those complaints, including the ombudsman, state agencies, agencies responsible for Medicaid program integrity, and local law enforcement agencies.

(g) Assistance to the resident or the resident's representative to relocate the resident if quality-of-care issues are not otherwise addressed.

(h) Use of Medicare and other third-party funds to support activities of the program.

(4) The agency shall coordinate the pilot project activities with providers approved by Medicare to operate Evercare demonstration projects.

Section 26. Subsections (3) and (4) of section 400.19, Florida Statutes, are amended to read:

400.19 Right of entry and inspection.—

(3) The agency shall every 15 months conduct at least one unannounced inspection to determine compliance by the licensee with statutes, and with rules promulgated under the provisions of those statutes, governing minimum standards of construction, quality and adequacy of care, and rights of residents. *The survey shall be conducted every 6 months for the next 2-year period if the facility has been cited for a class I deficiency, has been cited for two or more class II deficiencies arising from separate surveys or investigations within a 60-day period,*

or has had three or more substantiated complaints within a 6-month period, each resulting in at least one class I or class II deficiency. In addition to any other fees or fines in this part, the agency shall assess a fine for each facility that is subject to the 6-month survey cycle. The fine for the 2-year period shall be $6,000, one-half to be paid at the completion of each survey. The agency may adjust this fine by the change in the Consumer Price Index, based on the 12 months immediately preceding the increase, to cover the cost of the additional surveys. The agency shall verify through subsequent inspection that any deficiency identified during the annual inspection is corrected. However, the agency may verify the correction of a class III *or class IV* deficiency unrelated to resident rights or resident care without reinspecting the facility if adequate written documentation has been received from the facility, which provides assurance that the deficiency has been corrected. The giving or causing to be given of advance notice of such unannounced inspections by an employee of the agency to any unauthorized person shall constitute cause for suspension of not fewer than 5 working days according to the provisions of chapter 110.

(4) The agency shall conduct unannounced onsite facility reviews following written verification of licensee noncompliance in instances in which a long-term care ombudsman council, pursuant to ss. 400.0071 and 400.0075, has received a complaint and has documented deficiencies in resident care or in the physical plant of the facility that threaten the health, safety, or security of residents, or when the agency documents through inspection that conditions in a facility present a direct or indirect threat to the health, safety, or security of residents. However, the agency shall conduct ~~four or more~~ unannounced onsite reviews *every 3 months* ~~within a 12-month period~~ of each facility *while the facility* ~~which~~ has a conditional *license* ~~licensure status~~. Deficiencies related to physical plant do not require followup reviews after the agency has determined that correction of the deficiency has been accomplished and that the correction is of the nature that continued compliance can be reasonably expected.

Section 27. Subsection (3) and paragraph (a) of subsection (5) of section 400.191, Florida Statutes, are amended to read:

400.191 Availability, distribution, and posting of reports and records.—

(3) Each nursing home facility licensee shall maintain as public information, available upon request, records of all cost and inspection reports pertaining to that facility that have been filed with, or issued by, any governmental agency. Copies of such reports shall be retained in such records for not less than 5 years from the date the reports are filed or issued.

(a) The agency shall quarterly publish a "Nursing Home Guide Watch List" to assist consumers in evaluating the quality of nursing home care in Florida. The watch list must identify each facility that met the criteria for a conditional licensure status on any day within the quarter covered by the list and each facility that was operating under bankruptcy protection on any day within the quarter. The watch list must include, but is not limited to, the facility's name, address, and ownership; the county in which the facility operates; the license expiration date; the number of licensed beds; a description of the deficiency causing the facility to be placed on the list; any corrective action taken; and the cumulative number of times the facility has been on a watch list. The watch list must include a brief description regarding how to choose a nursing home, the categories of licensure, the agency's inspection process, an explanation of terms used in the watch list, and the addresses and phone numbers of the agency's managed care and health quality area offices.

(b) Upon publication of each quarterly watch list, the agency must transmit a copy of the watch list to each nursing home facility by mail and must make the watch list available on the agency's Internet web site.

(5) Every nursing home facility licensee shall:

(a) Post, in a sufficient number of prominent positions in the nursing home so as to be accessible to all residents and to the general public*:*~~,~~

1. A concise summary of the last inspection report pertaining to the nursing home and issued by the agency, with references to the page numbers of the full reports, noting any deficiencies found by the agency and the actions taken by the licensee to rectify such deficiencies and indicating in such summaries where the full reports may be inspected in the nursing home.

2. A copy of the most recent version of the Florida Nursing Home Guide Watch List.

Section 28. Subsection (2) of section 400.211, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

400.211 Persons employed as nursing assistants; certification requirement.—

(2) The following categories of persons who are not certified as nursing assistants under part II of chapter 464 may be employed by a nursing facility for a period of 4 months:

(a) Persons who are enrolled in, or have completed, a state-approved nursing assistant program; ~~or~~

(b) Persons who have been positively verified as actively certified and on the registry in another state with no findings of abuse*, neglect, or exploitation in that state*; or

(c) Persons who have preliminarily passed the state's certification exam.

The certification requirement must be met within 4 months after initial employment as a nursing assistant in a licensed nursing facility.

(4) When employed by a nursing home facility for a 12-month period or longer, a nursing assistant, to maintain certification, shall submit to a performance review every 12 months and must receive regular inservice education based on the outcome of such reviews. The inservice training must:

(a) Be sufficient to ensure the continuing competence of nursing assistants, must be at least 18 hours per year, and may include hours accrued under s. 464.203(8);

(b) Include, at a minimum:

1. Techniques for assisting with eating and proper feeding;

2. Principles of adequate nutrition and hydration;

3. Techniques for assisting and responding to the cognitively impaired resident or the resident with difficult behaviors;

4. Techniques for caring for the resident at the end-of-life; and

5. Recognizing changes that place a resident at risk for pressure ulcers and falls; and

(c) Address areas of weakness as determined in nursing assistant performance reviews and may address the special needs of residents as determined by the nursing home facility staff.

Section 29. Subsections (2), (3), (7), and (8) of section 400.23, Florida Statutes, are amended to read:

400.23 Rules; evaluation and deficiencies; licensure status.—

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

(a) The location and construction of the facility; including fire and life safety, plumbing, heating, cooling, lighting, ventilation, and other housing conditions which will ensure the health, safety, and comfort of residents, including an adequate call system. The agency shall establish standards for facilities and equipment to increase the extent to which new facilities and a new wing or floor added to an existing facility after July 1, 1999, are structurally capable of serving as shelters only for residents, staff, and families of residents and staff, and equipped to be

self-supporting during and immediately following disasters. ~~The agency shall work with facilities licensed under this part and report to the Governor and Legislature by April 1, 1999, its recommendations for cost-effective renovation standards to be applied to existing facilities.~~ In making such rules, the agency shall be guided by criteria recommended by nationally recognized reputable professional groups and associations with knowledge of such subject matters. The agency shall update or revise such criteria as the need arises. All nursing homes must comply with those lifesafety code requirements and building code standards applicable at the time of approval of their construction plans. The agency may require alterations to a building if it determines that an existing condition constitutes a distinct hazard to life, health, or safety. The agency shall adopt fair and reasonable rules setting forth conditions under which existing facilities undergoing additions, alterations, conversions, renovations, or repairs shall be required to comply with the most recent updated or revised standards.

(b) The number and qualifications of all personnel, including management, medical, nursing, and other professional personnel, and nursing assistants, orderlies, and support personnel, having responsibility for any part of the care given residents.

(c) All sanitary conditions within the facility and its surroundings, including water supply, sewage disposal, food handling, and general hygiene which will ensure the health and comfort of residents.

(d) The equipment essential to the health and welfare of the residents.

(e) A uniform accounting system.

(f) The care, treatment, and maintenance of residents and measurement of the quality and adequacy thereof, based on rules developed under this chapter and the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended.

(g) The preparation and annual update of a comprehensive emergency management plan. The agency shall adopt rules establishing minimum criteria for the plan after consultation with the Department of Community Affairs. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; and responding to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Department of Elderly Affairs, the Department of Health, the Agency for Health Care Administration, and the Department of Community Affairs. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

(h) The implementation of the consumer satisfaction survey pursuant to s. 400.0225; the availability, distribution, and posting of reports and records pursuant to s. 400.191; and the Gold Seal Program pursuant to s. 400.235.

(3)(a) The agency shall adopt rules providing for the minimum staffing requirements for nursing homes. These requirements shall include, for each nursing home facility, a minimum certified nursing assistant staffing and a minimum licensed nursing staffing per resident per day~~, including evening and night shifts and weekends~~. *The minimum certified nursing assistant staffing shall be 2.6 hours of direct care per resident per day beginning January 1, 2002, and shall increase to 2.9 hours of direct care per resident per day beginning January 1, 2003. Beginning January 1, 2002, no facility shall staff at less than one certified nursing assistant per 20 residents. Facilities that have been free of any class I or class II violation for the past 30 months may provide a minimum of 2.3 hours of certified nursing assistant service per resident per day until January 1, 2003. Nursing assistants employed under s. 400.211(2) may be included in computing the staffing ratio for certified nursing assistants only if they provide nursing assistance services to residents on a full-time basis. Each nursing home must document compliance with staffing standards as required under this paragraph and post daily* ~~Agency rules shall specify requirements for documentation of compliance with staffing standards, sanctions for violation of such standards, and requirements for daily posting of~~ the names of staff on duty for the benefit of facility residents and the public. The agency shall recognize the use of licensed nurses for compliance with minimum staffing requirements for certified nursing assistants, provided that the facility otherwise meets the minimum staffing requirements for licensed nurses and that the licensed nurses so recognized are performing the duties of a certified nursing assistant. Unless otherwise approved by the agency, licensed nurses counted towards the minimum staffing requirements for certified nursing assistants must exclusively perform the duties of a certified nursing assistant for the entire shift and shall not also be counted towards the minimum staffing requirements for licensed nurses. If the agency approved a facility's request to use a licensed nurse to perform both licensed nursing and certified nursing assistant duties, the facility must allocate the amount of staff time specifically spent on certified nursing assistant duties for the purpose of documenting compliance with minimum staffing requirements for certified and licensed nursing staff. In no event may the hours of a licensed nurse with dual job responsibilities be counted twice.

(b) The agency shall adopt rules to allow properly trained staff of a nursing facility, in addition to certified nursing assistants and licensed nurses, to assist residents with eating. The rules shall specify the minimum training requirements and shall specify the physiological conditions or disorders of residents which would necessitate that the eating assistance be provided by nursing personnel of the facility. Nonnursing staff providing eating assistance to residents under the provisions of this subsection shall not count towards compliance with minimum staffing standards.

(c) Licensed practical nurses licensed under chapter 464 who are providing nursing services in nursing home facilities under this part may supervise the activities of other licensed practical nurses, certified nursing assistants, and other unlicensed personnel providing services in such facilities in accordance with rules adopted by the Board of Nursing.

(7) The agency shall, at least every 15 months, evaluate all nursing home facilities and make a determination as to the degree of compliance by each licensee with the established rules adopted under this part as a basis for assigning a licensure status to that facility. The agency shall base its evaluation on the most recent inspection report, taking into consideration findings from other official reports, surveys, interviews, investigations, and inspections. The agency shall assign a licensure status of standard or conditional to each nursing home.

(a) A standard licensure status means that a facility has no class I or class II deficiencies, has corrected all class III deficiencies within the time established by the agency~~, and is in substantial compliance at the time of the survey with criteria established under this part, with rules adopted by the agency, and, if applicable, with rules adopted under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended~~.

(b) A conditional licensure status means that a facility, due to the presence of one or more class I or class II deficiencies, or class III deficiencies not corrected within the time established by the agency, is not in substantial compliance at the time of the survey with criteria established under this part *or*~~,~~ with rules adopted by the agency~~, or, if applicable, with rules adopted under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22, 1987), Title IV (Medicare, Medicaid, and Other Health-Related Programs), Subtitle C (Nursing Home Reform), as amended~~. If the facility *has no class I, class II, or class III deficiencies* ~~comes into substantial compliance~~ at the time of the followup survey, a standard licensure status may be assigned.

(c) In evaluating the overall quality of care and services and determining whether the facility will receive a conditional or standard license, the agency shall consider the needs and limitations of residents in the facility and the results of interviews and surveys of a representative sampling of residents, families of residents, ombudsman council members in the planning and service area in which the facility is located, guardians of residents, and staff of the nursing home facility.

(d) The current licensure status of each facility must be indicated in bold print on the face of the license. A list of the deficiencies of the facility shall be posted in a prominent place that is in clear and unobstructed public view at or near the place where residents are being admitted to that facility. Licensees receiving a conditional licensure status for a facility shall prepare, within 10 working days after receiving notice of deficiencies, a plan for correction of all deficiencies and shall submit the plan to the agency for approval. ~~Correction of all deficiencies, within the period approved by the agency, shall result in termination of the conditional licensure status. Failure to correct the deficiencies within a reasonable period approved by the agency shall be grounds for the imposition of sanctions pursuant to this part.~~

(e) Each licensee shall post its license in a prominent place that is in clear and unobstructed public view at or near the place where residents are being admitted to the facility.

(f) ~~Not later than January 1, 1994,~~ The agency shall adopt rules that:

1. Establish uniform procedures for the evaluation of facilities.

2. Provide criteria in the areas referenced in paragraph (c).

3. Address other areas necessary for carrying out the intent of this section.

(8) The agency shall adopt rules to provide that, when the criteria established under subsection (2) are not met, such deficiencies shall be classified according to the nature *and the scope* of the deficiency. *The scope shall be cited as isolated, patterned, or widespread. An isolated deficiency is a deficiency affecting one or a very limited number of residents, or involving one or a very limited number of staff, or a situation that occurred only occasionally or in a very limited number of locations. A patterned deficiency is a deficiency where more than a very limited number of residents are affected, or more than a very limited number of staff are involved, or the situation has occurred in several locations, or the same resident or residents have been affected by repeated occurrences of the same deficient practice but the effect of the deficient practice is not found to be pervasive throughout the facility. A widespread deficiency is a deficiency in which the problems causing the deficiency are pervasive in the facility or represent systemic failure that has affected or has the potential to affect a large portion of the facility's residents.* The agency shall indicate the classification on the face of the notice of deficiencies as follows:

(a) *A* class I *deficiency is a deficiency that* ~~deficiencies are those which~~ the agency determines *presents a situation in which immediate corrective action is necessary because the facility's noncompliance has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident receiving care in a facility* ~~present an imminent danger to the residents or guests of the nursing home facility or a substantial probability that death or serious physical harm would result therefrom~~. The condition or practice constituting a class I violation shall be abated or eliminated immediately, unless a fixed period of time, as determined by the agency, is required for correction. ~~Notwithstanding s. 400.121(2),~~ A class I deficiency is subject to a civil penalty *of $10,000 for an isolated deficiency, $12,500 for a patterned deficiency, and $15,000 for a widespread* ~~in an amount not less than $5,000 and not exceeding $25,000 for each and every~~ deficiency. *The fine amount shall be doubled for each deficiency if the facility was previously cited for one or more class I or class II deficiencies during the last annual inspection or any inspection or complaint investigation since the last annual inspection.* A fine *must* ~~may~~ be levied notwithstanding the correction of the deficiency.

(b) *A* class II *deficiency is a deficiency that* ~~deficiencies are those which~~ the agency determines *has compromised the resident's ability to maintain or reach his or her highest practicable physical, mental, and psychosocial well-being, as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services* ~~have a direct or immediate relationship to the health, safety, or security of the nursing home facility residents, other than class I deficiencies~~. A class II deficiency is subject to a civil penalty *of $2,500 for an isolated deficiency, $5,000 for a patterned deficiency, and $7,500 for a widespread* ~~in an amount not less than $1,000 and not exceeding $10,000 for each and every~~ deficiency. *The fine amount shall be doubled for each deficiency if the facility was previously cited for one or more class I or class II deficiencies during the last annual inspection or any inspection or complaint investigation since the last annual inspection. A fine shall be levied notwithstanding the correction of the deficiency.* ~~A citation for a class II deficiency shall specify the time within which the deficiency is required to be corrected. If a class II deficiency is corrected within the time specified, no civil penalty shall be imposed, unless it is a repeated offense.~~

(c) *A* class III *deficiency is a deficiency that* ~~deficiencies are those which~~ the agency determines *will result in no more than minimal physical, mental, or psychosocial discomfort to the resident or has the potential to compromise the resident's ability to maintain or reach his or her highest practical physical, mental, or psychosocial well-being, as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services* ~~to have an indirect or potential relationship to the health, safety, or security of the nursing home facility residents, other than class I or class II deficiencies~~. A class III deficiency *is* ~~shall be~~ subject to a civil penalty of *$1,000 for an isolated deficiency, $2,000 for a patterned deficiency, and $3,000 for a widespread* ~~not less than $500 and not exceeding $2,500 for each and every~~ deficiency. *The fine amount shall be doubled for each deficiency if the facility was previously cited for one or more class I or class II deficiencies during the last annual inspection or any inspection or complaint investigation since the last annual inspection.* A citation for a class III deficiency *must* ~~shall~~ specify the time within which the deficiency is required to be corrected. If a class III deficiency is corrected within the time specified, no civil penalty shall be imposed~~, unless it is a repeated offense~~.

(d) A class IV deficiency is a deficiency that the agency determines has the potential for causing no more than a minor negative impact on the resident. If the class IV deficiency is isolated, no plan of correction is required.

Section 30. Subsection (5) of section 400.235, Florida Statutes, is amended to read:

400.235 Nursing home quality and licensure status; Gold Seal Program.—

(5) Facilities must meet the following additional criteria for recognition as a Gold Seal Program facility:

(a) Had no class I or class II deficiencies within the 30 months preceding application for the program.

(b) Evidence financial soundness and stability according to standards adopted by the agency in administrative rule.

(c) Participate consistently in the required consumer satisfaction process as prescribed by the agency, and demonstrate that information is elicited from residents, family members, and guardians about satisfaction with the nursing facility, its environment, the services and care provided, the staff's skills and interactions with residents, attention to resident's needs, and the facility's efforts to act on information gathered from the consumer satisfaction measures.

(d) Evidence the involvement of families and members of the community in the facility on a regular basis.

(e) Have a stable workforce, *as described in s. 400.141,* as evidenced by a relatively low rate of turnover among certified nursing assistants and licensed nurses within the 30 months preceding application for the Gold Seal Program, and demonstrate a continuing effort to maintain a stable workforce and to reduce turnover of licensed nurses and certified nursing assistants.

(f) Evidence an outstanding record regarding the number and types of substantiated complaints reported to the State Long-Term Care Ombudsman Council within the 30 months preceding application for the program.

(g) Provide targeted inservice training provided to meet training needs identified by internal or external quality assurance efforts.

A facility assigned a conditional licensure status may not qualify for consideration for the Gold Seal Program until after it has operated for 30 months with no class I or class II deficiencies and has completed a regularly scheduled relicensure survey.

Section 31. Section 400.275, Florida Statutes, is created to read:

400.275 Agency duties.—

(1) The agency shall ensure that each newly hired nursing home surveyor, as a part of basic training, is assigned full-time to a licensed nursing home for at least 2 days within a 7-day period to observe facility operations outside of the survey process before the surveyor begins survey responsibilities. Such observations may not be the sole basis of a deficiency citation against the facility. The agency may not assign an individual to be a member of a survey team for purposes of a survey, evaluation, or consultation visit at a nursing home facility in which the surveyor was an employee within the preceding 5 years.

(2) The agency shall semiannually provide for joint training of nursing home surveyors and staff of facilities licensed under this part on at least one of the 10 federal citations that were most frequently issued against nursing facilities in this state during the previous calendar year.

(3) Each member of a nursing home survey team who is a health professional licensed under part I of chapter 464, part X of chapter 468, or chapter 491, shall earn not less than 50 percent of required continuing education credits in geriatric care. Each member of a nursing home survey team who is a health professional licensed under chapter 465 shall earn not less than 30 percent of required continuing education credits in geriatric care.

(4) The agency must ensure that when a deficiency is related to substandard quality of care, a physician with geriatric experience licensed under chapter 458 or chapter 459 or a registered nurse with geriatric experience licensed under chapter 464 participates in the agency's informal dispute-resolution process.

Section 32. Subsections (3) and (4) of section 400.407, Florida Statutes, are amended to read:

400.407 License required; fee, display.—

(3) Any license granted by the agency must state the maximum resident capacity of the facility, the type of care for which the license is granted, the date the license is issued, the expiration date of the license, and any other information deemed necessary by the agency. Licenses shall be issued for one or more of the following categories of care: standard, extended congregate care, limited nursing services, or limited mental health.

(a) A standard license shall be issued to facilities providing one or more of the *personal* services identified in s. 400.402. Such facilities may also employ or contract with a person licensed under part I of chapter 464 to administer medications and perform other tasks as specified in s. 400.4255.

(b) An extended congregate care license shall be issued to facilities providing, directly or through contract, services beyond those authorized in paragraph (a), including acts performed pursuant to part I of chapter 464 by persons licensed thereunder, and supportive services defined by rule to persons who otherwise would be disqualified from continued residence in a facility licensed under this part.

1. In order for extended congregate care services to be provided in a facility licensed under this part, the agency must first determine that all requirements established in law and rule are met and must specifically designate, on the facility's license, that such services may be provided and whether the designation applies to all or part of a facility. Such designation may be made at the time of initial licensure or ~~biennial~~ relicensure, or upon request in writing by a licensee under this part. Notification of approval or denial of such request shall be made within 90 days after receipt of such request and all necessary documentation. Existing facilities qualifying to provide extended congregate care services must have maintained a standard license and may not have been subject to administrative sanctions during the previous 2 years, or since initial licensure if the facility has been licensed for less than 2 years, for any of the following reasons:

a. A class I or class II violation;

b. Three or more repeat or recurring class III violations of identical or similar resident care standards as specified in rule from which a pattern of noncompliance is found by the agency;

c. Three or more class III violations that were not corrected in accordance with the corrective action plan approved by the agency;

d. Violation of resident care standards resulting in a requirement to employ the services of a consultant pharmacist or consultant dietitian;

e. Denial, suspension, or revocation of a license for another facility under this part in which the applicant for an extended congregate care license has at least 25 percent ownership interest; or

f. Imposition of a moratorium on admissions or initiation of injunctive proceedings.

2. Facilities that are licensed to provide extended congregate care services shall maintain a written progress report on each person who receives such services, which report describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse, or appropriate designee, representing the agency shall visit such facilities at least *quarterly* ~~two times a year~~ to monitor residents who are receiving extended congregate care services and to determine if the facility is in compliance with this part and with rules that relate to extended congregate care. One of these visits may be in conjunction with the regular ~~biennial~~ survey. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall serve as part of the team that ~~biennially~~ inspects such facility. The agency may waive one of the required yearly monitoring visits for a facility that has been licensed for at least 24 months to provide extended congregate care services, if, during the ~~biennial~~ inspection, the registered nurse determines that extended congregate care services are being provided appropriately, and if the facility has no class I or class II violations and no uncorrected class III violations. Before such decision is made, the agency shall consult with the long-term care ombudsman council for the area in which the facility is located to determine if any complaints have been made and substantiated about the quality of services or care. The agency may not waive one of the required yearly monitoring visits if complaints have been made and substantiated.

3. Facilities that are licensed to provide extended congregate care services shall:

a. Demonstrate the capability to meet unanticipated resident service needs.

b. Offer a physical environment that promotes a homelike setting, provides for resident privacy, promotes resident independence, and allows sufficient congregate space as defined by rule.

c. Have sufficient staff available, taking into account the physical plant and firesafety features of the building, to assist with the evacuation of residents in an emergency, as necessary.

d. Adopt and follow policies and procedures that maximize resident independence, dignity, choice, and decisionmaking to permit residents to age in place to the extent possible, so that moves due to changes in functional status are minimized or avoided.

e. Allow residents or, if applicable, a resident's representative, designee, surrogate, guardian, or attorney in fact to make a variety of

personal choices, participate in developing service plans, and share responsibility in decisionmaking.

f. Implement the concept of managed risk.

g. Provide, either directly or through contract, the services of a person licensed pursuant to part I of chapter 464.

h. In addition to the training mandated in s. 400.452, provide specialized training as defined by rule for facility staff.

4. Facilities licensed to provide extended congregate care services are exempt from the criteria for continued residency as set forth in rules adopted under s. 400.441. Facilities so licensed shall adopt their own requirements within guidelines for continued residency set forth by the department in rule. However, such facilities may not serve residents who require 24-hour nursing supervision. Facilities licensed to provide extended congregate care services shall provide each resident with a written copy of facility policies governing admission and retention.

5. The primary purpose of extended congregate care services is to allow residents, as they become more impaired, the option of remaining in a familiar setting from which they would otherwise be disqualified for continued residency. A facility licensed to provide extended congregate care services may also admit an individual who exceeds the admission criteria for a facility with a standard license, if the individual is determined appropriate for admission to the extended congregate care facility.

6. Before admission of an individual to a facility licensed to provide extended congregate care services, the individual must undergo a medical examination as provided in s. 400.426(4) and the facility must develop a preliminary service plan for the individual.

7. When a facility can no longer provide or arrange for services in accordance with the resident's service plan and needs and the facility's policy, the facility shall make arrangements for relocating the person in accordance with s. 400.428(1)(k).

8. Failure to provide extended congregate care services may result in denial of extended congregate care license renewal.

9. No later than January 1 of each year, the department, in consultation with the agency, shall prepare and submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of appropriate legislative committees, a report on the status of, and recommendations related to, extended congregate care services. The status report must include, but need not be limited to, the following information:

a. A description of the facilities licensed to provide such services, including total number of beds licensed under this part.

b. The number and characteristics of residents receiving such services.

c. The types of services rendered that could not be provided through a standard license.

d. An analysis of deficiencies cited during *licensure* ~~biennial~~ inspections.

e. The number of residents who required extended congregate care services at admission and the source of admission.

f. Recommendations for statutory or regulatory changes.

g. The availability of extended congregate care to state clients residing in facilities licensed under this part and in need of additional services, and recommendations for appropriations to subsidize extended congregate care services for such persons.

h. Such other information as the department considers appropriate.

(c) A limited nursing services license shall be issued to a facility that provides services beyond those authorized in paragraph (a) and as specified in this paragraph.

1. In order for limited nursing services to be provided in a facility licensed under this part, the agency must first determine that all requirements established in law and rule are met and must specifically designate, on the facility's license, that such services may be provided. Such designation may be made at the time of initial licensure or ~~biennial~~ relicensure, or upon request in writing by a licensee under this part. Notification of approval or denial of such request shall be made within 90 days after receipt of such request and all necessary documentation. Existing facilities qualifying to provide limited nursing services shall have maintained a standard license and may not have been subject to administrative sanctions that affect the health, safety, and welfare of residents for the previous 2 years or since initial licensure if the facility has been licensed for less than 2 years.

2. Facilities that are licensed to provide limited nursing services shall maintain a written progress report on each person who receives such nursing services, which report describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse representing the agency shall visit such facilities at least *twice* ~~once~~ a year to monitor residents who are receiving limited nursing services and to determine if the facility is in compliance with applicable provisions of this part and with related rules. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall also serve as part of the team that ~~biennially~~ inspects such facility.

3. A person who receives limited nursing services under this part must meet the admission criteria established by the agency for assisted living facilities. When a resident no longer meets the admission criteria for a facility licensed under this part, arrangements for relocating the person shall be made in accordance with s. 400.428(1)(k), unless the facility is licensed to provide extended congregate care services.

(4)(a) The biennial license fee required of a facility is *$300* ~~$240~~ per license, with an additional fee of *$50* ~~$30~~ per resident based on the total licensed resident capacity of the facility, except that no additional fee will be assessed for beds designated for recipients of optional state supplementation payments provided for in s. 409.212. The total fee may not exceed $10,000, no part of which shall be returned to the facility. The agency shall adjust the per bed license fee and the total licensure fee annually by not more than the change in the consumer price index based on the 12 months immediately preceding the increase.

(b) In addition to the total fee assessed under paragraph (a), the agency shall require facilities that are licensed to provide extended congregate care services under this part to pay an additional fee per licensed facility. The amount of the biennial fee shall be $400 per license, *with an additional fee of $10 per resident based on the total licensed resident capacity of the facility.* No part of *this fee* ~~which~~ shall be returned to the facility. The agency may adjust the *per-bed license fee and the* annual license fee once each year by not more than the average rate of inflation for the 12 months immediately preceding the increase.

(c) In addition to the total fee assessed under paragraph (a), the agency shall require facilities that are licensed to provide limited nursing services under this part to pay an additional fee per licensed facility. The amount of the biennial fee shall be *$250* ~~$200~~ per license, with an additional fee of $10 per resident based on the total licensed resident capacity of the facility. ~~The total biennial fee may not exceed $2,000,~~ No part of *this fee* ~~which~~ shall be returned to the facility. The agency may adjust the *per-bed license fee and the* ~~$200~~ biennial license fee ~~and the maximum total license fee~~ once each year by not more than the average rate of inflation for the 12 months immediately preceding the increase.

Section 33. Paragraph (n) is added to subsection (1) of section 400.414, Florida Statutes, and subsection (8) is added to that section, to read:

400.414 Denial, revocation, or suspension of license; imposition of administrative fine; grounds.—

(1) The agency may deny, revoke, or suspend any license issued under this part, or impose an administrative fine in the manner

provided in chapter 120, for any of the following actions by an assisted living facility, any person subject to level 2 background screening under s. 400.4174, or any facility employee:

(n) Any act constituting a ground upon which application for a license may be denied.

Administrative proceedings challenging agency action under this subsection shall be reviewed on the basis of the facts and conditions that resulted in the agency action.

(8) The agency may issue a temporary license pending final disposition of a proceeding involving the suspension or revocation of an assisted living facility license.

Section 34. Section 400.419, Florida Statutes, is amended to read:

400.419 Violations; administrative fines.—

(1) Each violation of this part and adopted rules shall be classified according to the nature of the violation and the gravity of its probable effect on facility residents. The agency shall indicate the classification on the written notice of the violation as follows:

(a) Class "I" violations are those conditions or occurrences related to the operation and maintenance of a facility or to the personal care of residents which the agency determines present an imminent danger to the residents or guests of the facility or a substantial probability that death or serious physical or emotional harm would result therefrom. The condition or practice constituting a class I violation shall be abated or eliminated within 24 hours, unless a fixed period, as determined by the agency, is required for correction. A class I violation is subject to an administrative fine in an amount not less than *$5,000* ~~$1,000~~ and not exceeding $10,000 for each violation. A fine may be levied notwithstanding the correction of the violation.

(b) Class "II" violations are those conditions or occurrences related to the operation and maintenance of a facility or to the personal care of residents which the agency determines directly threaten the physical or emotional health, safety, or security of the facility residents, other than class I violations. A class II violation is subject to an administrative fine in an amount not less than *$1,000* ~~$500~~ and not exceeding $5,000 for each violation. A citation for a class II violation *must* ~~shall~~ specify the time within which the violation is required to be corrected. ~~If a class II violation is corrected within the time specified, no fine may be imposed, unless it is a repeated offense.~~

(c) Class "III" violations are those conditions or occurrences related to the operation and maintenance of a facility or to the personal care of residents which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of facility residents, other than class I or class II violations. A class III violation is subject to an administrative fine of not less than *$500* ~~$100~~ and not exceeding $1,000 for each violation. A citation for a class III violation *must* ~~shall~~ specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, no fine may be imposed, unless it is a repeated offense.

(d) Class "IV" violations are those conditions or occurrences related to the operation and maintenance of a building or to required reports, forms, or documents that do not have the potential of negatively affecting residents. These violations are of a type that the agency determines do not threaten the health, safety, or security of residents of the facility. A facility that does not correct a class IV violation within the time specified in the agency-approved corrective action plan is subject to an administrative fine of not less than *$100* ~~$50~~ nor more than $200 for each violation. Any class IV violation that is corrected during the time an agency survey is being conducted will be identified as an agency finding and not as a violation.

~~(2) The agency may set and levy a fine not to exceed $1,000 for each violation which cannot be classified according to subsection (1). Such fines in the aggregate may not exceed $10,000 per survey.~~

(2)~~(3)~~ In determining if a penalty is to be imposed and in fixing the amount of the fine, the agency shall consider the following factors:

(a) The gravity of the violation, including the probability that death or serious physical or emotional harm to a resident will result or has resulted, the severity of the action or potential harm, and the extent to which the provisions of the applicable laws or rules were violated.

(b) Actions taken by the owner or administrator to correct violations.

(c) Any previous violations.

(d) The financial benefit to the facility of committing or continuing the violation.

(e) The licensed capacity of the facility.

(3)~~(4)~~ Each day of continuing violation after the date fixed for termination of the violation, as ordered by the agency, constitutes an additional, separate, and distinct violation.

(4)~~(5)~~ Any action taken to correct a violation shall be documented in writing by the owner or administrator of the facility and verified through followup visits by agency personnel. The agency may impose a fine and, in the case of an owner-operated facility, revoke or deny a facility's license when a facility administrator fraudulently misrepresents action taken to correct a violation.

(5)~~(6)~~ For fines that are upheld following administrative or judicial review, the violator shall pay the fine, plus interest at the rate as specified in s. 55.03, for each day beyond the date set by the agency for payment of the fine.

(6)~~(7)~~ Any unlicensed facility that continues to operate after agency notification is subject to a $1,000 fine *per day*. ~~Each day beyond 5 working days after agency notification constitutes a separate violation, and the facility is subject to a fine of $500 per day.~~

(7)~~(8)~~ Any licensed facility whose owner or administrator concurrently operates an unlicensed facility shall be subject to an administrative fine of $5,000 *per day*. ~~Each day that the unlicensed facility continues to operate beyond 5 working days after agency notification constitutes a separate violation, and the licensed facility shall be subject to a fine of $500 per day retroactive to the date of agency notification.~~

(8)~~(9)~~ Any facility whose owner fails to apply for a change-of-ownership license in accordance with s. 400.412 and operates the facility under the new ownership is subject to a fine *of* ~~not to exceed~~ $5,000.

(9)~~(10)~~ In addition to any administrative fines imposed, the agency may assess a survey fee, equal to the lesser of one half of the facility's biennial license and bed fee or $500, to cover the cost of conducting initial complaint investigations that result in the finding of a violation that was the subject of the complaint or monitoring visits conducted under s. 400.428(3)(c) to verify the correction of the violations.

(10)~~(11)~~ The agency, as an alternative to or in conjunction with an administrative action against a facility for violations of this part and adopted rules, shall make a reasonable attempt to discuss each violation and recommended corrective action with the owner or administrator of the facility, prior to written notification. The agency, instead of fixing a period within which the facility shall enter into compliance with standards, may request a plan of corrective action from the facility which demonstrates a good faith effort to remedy each violation by a specific date, subject to the approval of the agency.

(11)~~(12)~~ Administrative fines paid by any facility under this section shall be deposited into the Health Care Trust Fund and expended as provided in s. 400.418.

(12)~~(13)~~ The agency shall develop and disseminate an annual list of all facilities sanctioned or fined $5,000 or more for violations of state standards, the number and class of violations involved, the penalties imposed, and the current status of cases. The list shall be disseminated, at no charge, to the Department of Elderly Affairs, the Department of Health, the Department of Children and Family Services, the area agencies on aging, the Florida Statewide Advocacy Council, and the state and local ombudsman councils. The Department of Children and

Family Services shall disseminate the list to service providers under contract to the department who are responsible for referring persons to a facility for residency. The agency may charge a fee commensurate with the cost of printing and postage to other interested parties requesting a copy of this list.

Section 35. Section 400.423, Florida Statutes, is created to read:

400.423 Internal risk management and quality assurance program; adverse incidents and reporting requirements.—

(1) Every facility licensed under this part may, as part of its administrative functions, voluntarily establish a risk management and quality assurance program, the purpose of which is to assess resident care practices, facility incident reports, deficiencies cited by the agency, adverse incident reports, and resident grievances and develop plans of action to correct and respond quickly to identify quality differences.

(2) Every facility licensed under this part is required to maintain adverse incident reports. For purposes of this section, the term, "adverse incident" means:

(a) An event over which facility personnel could exercise control rather than as a result of the resident's condition and results in:

1. Death;

2. Brain or spinal damage;

3. Permanent disfigurement;

4. Fracture or dislocation of bones or joints;

5. Any condition that required medical attention to which the resident has not given his or her consent, including failure to honor advanced directives;

6. Any condition that requires the transfer of the resident from the facility to a unit providing more acute care due to the incident rather than the resident's condition before the incident.

(b) Abuse, neglect, or exploitation as defined in s. 415.102;

(c) Events reported to law enforcement; or

(d) Elopement.

(3) Licensed facilities shall provide within 1 business day after the occurrence of an adverse incident, by electronic mail, facsimile, or United States mail, a preliminary report to the agency on all adverse incidents specified under this section. The report must include information regarding the identity of the affected resident, the type of adverse incident, and the status of the facility's investigation of the incident.

(4) Licensed facilities shall provide within 15 days, by electronic mail, facsimile, or United States mail, a full report to the agency on all adverse incidents specified in this section. The report must include the results of the facility's investigation into the adverse incident.

(5) Each facility shall report monthly to the agency any liability claim filed against it. The report must include the name of the resident, the dates of the incident leading to the claim, if applicable, and the type of injury or violation of rights alleged to have occurred. This report is not discoverable in any civil or administrative action, except in such actions brought by the agency to enforce the provisions of this part.

(6) The agency shall annually submit to the Legislature a report on assisted living facility adverse incident reports. The report must include the following information arranged by county:

(a) A total number of adverse incidents;

(b) A listing, by category, of the type of adverse incidents occurring within each category and the type of staff involved;

(c) A listing, by category, of the types of injuries, if any, and the number of injuries occurring within each category;

(d) Types of liability claims filed based on an adverse incident report or reportable injury; and

(e) Disciplinary action taken against staff, categorized by the type of staff involved.

(7) The information reported to the agency pursuant to subsection (3) which relates to persons licensed under chapter 458, chapter 459, chapter 461, chapter 464, or chapter 465 shall be reviewed by the agency. The agency shall determine whether any of the incidents potentially involved conduct by a health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 apply. The agency may investigate, as it deems appropriate, any such incident and prescribe measures that must or may be taken in response to the incident. The agency shall review each incident and determine whether it potentially involved conduct by a health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 apply.

(8) If the agency, through its receipt of the adverse incident reports prescribed in this part or through any investigation, has reasonable belief that conduct by a staff member or employee of a licensed facility is grounds for disciplinary action by the appropriate board, the agency shall report this fact to such regulatory board.

(9) The adverse incident reports and preliminary adverse incident reports required under this section are confidential as provided by law and are not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or appropriate regulatory board.

(10) The Department of Elderly Affairs may adopt rules necessary to administer this section.

Section 36. Present subsections (7), (8), (9), (10), and (11) of section 400.426, Florida Statutes, are redesignated as subsections (8), (9), (10), (11), and (12), respectively, and a new subsection (7) is added to that section, to read:

400.426 Appropriateness of placements; examinations of residents.—

(7) The facility must notify a licensed physician when a resident exhibits signs of dementia or cognitive impairment or has a change of condition in order to rule out the presence of an underlying physiological condition that may be contributing to such dementia or impairment. The notification must occur within 30 days after the acknowledgement of such signs by facility staff. If an underlying condition is determined to exist, the facility shall arrange, with the appropriate health care provider, the necessary care and services to treat the condition.

Section 37. Paragraph (k) of subsection (1) of section 400.428, Florida Statutes, is amended to read:

400.428 Resident bill of rights.—

(1) No resident of a facility shall be deprived of any civil or legal rights, benefits, or privileges guaranteed by law, the Constitution of the State of Florida, or the Constitution of the United States as a resident of a facility. Every resident of a facility shall have the right to:

(k) At least *45* ~~30~~ days' notice of relocation or termination of residency from the facility unless, for medical reasons, the resident is certified by a physician to require an emergency relocation to a facility providing a more skilled level of care or the resident engages in a pattern of conduct that is harmful or offensive to other residents. In the case of a resident who has been adjudicated mentally incapacitated, the guardian shall be given at least *45* ~~30~~ days' notice of a nonemergency relocation or residency termination. Reasons for relocation shall be set forth in writing. In order for a facility to terminate the residency of an individual without notice as provided herein, the facility shall show good cause in a court of competent jurisdiction.

Section 38. Effective May 15, 2001, and applying to causes of action accruing on or after that date, section 400.429, Florida Statutes, is amended to read:

400.429 Civil actions to enforce rights.—

(1) Any person or resident whose rights as specified in this part are violated shall have a cause of action ~~against any facility owner,~~

~~administrator, or staff responsible for the violation~~. The action may be brought by the resident or his or her guardian, or by a person or organization acting on behalf of a resident with the consent of the resident or his or her guardian, or by the personal representative of the estate of a deceased resident *regardless of the cause of death* ~~when the cause of death resulted from a violation of the decedent's rights, to enforce such rights~~. *If the action alleges a claim for the resident's rights or for negligence that caused the death of the resident, the claimant shall be required to elect either survival damages pursuant to s. 46.021 or wrongful death damages pursuant to s. 768.21. If the action alleges a claim for the resident's rights or for negligence that did not cause the death of the resident, the personal representative of the estate may recover damages for the negligence that caused injury to the resident.* The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual damages, and punitive damages *for violation of the rights of a resident or negligence* ~~when malicious, wanton, or willful disregard of the rights of others can be shown~~. *Any resident who prevails in seeking injunctive relief or a claim for an administrative remedy is entitled to recover the costs of the action and a reasonable attorney's fee assessed against the defendant not to exceed $25,000. Fees shall be awarded solely for the injunctive or administrative relief and not for any claim or action for damages whether such claim or action is brought together with a request for an injunction or administrative relief or as a separate action, except as provided under s. 768.79 or the Florida Rules of Civil Procedure. Sections 400.429-400.4303 provide the exclusive remedy for a cause of action for recovery of damages for the personal injury or death of a resident arising out of negligence or a violation of rights specified in s. 400.428. This section does not preclude theories of recovery not arising out of negligence or s. 400.428 which are available to a resident or to the agency. The provisions of chapter 766 do not apply to any cause of action brought under ss. 400.429-400.4303.* ~~Any plaintiff who prevails in any such action may be entitled to recover reasonable attorney's fees, costs of the action, and damages, unless the court finds that the plaintiff has acted in bad faith, with malicious purpose, and that there was a complete absence of a justiciable issue of either law or fact. A prevailing defendant may be entitled to recover reasonable attorney's fees pursuant to s. 57.105. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident or to the agency.~~

(2) *In any claim brought pursuant to this part alleging a violation of resident's rights or negligence causing injury to or the death of a resident, the claimant shall have the burden of proving, by a preponderance of the evidence, that:*

(a) The defendant owed a duty to the resident;

(b) The defendant breached the duty to the resident;

(c) The breach of the duty is a legal cause of loss, injury, death or damage to the resident; and

(d) The resident sustained loss, injury, death, or damage as a result of the breach.

Nothing in this part shall be interpreted to create strict liability. A violation of the rights set forth in s. 400.428 or in any other standard or guidelines specified in this part or in any applicable administrative standard or guidelines of this state or a federal regulatory agency shall be evidence of negligence but shall not be considered negligence per se.

(3) In any claim brought pursuant to s. 400.429, a licensee, person or entity shall have a duty to exercise reasonable care. Reasonable care is that degree of care which a reasonably careful licensee, person or entity would use under like circumstances.

(4) In any claim for resident's rights violation or negligence by a nurse licensed under part I of chapter 464, such nurse shall have the duty to exercise care consistent with the prevailing professional standard of care for a nurse. The prevailing professional standard of care for a nurse shall be that level of care, skill, and treatment which, in light of all relevant surrounding circumstances is recognized as acceptable and appropriate by reasonably prudent similar nurses. ~~To recover attorney's fees under this section, the following conditions precedent must be met:~~

~~(a) Within 120 days after the filing of a responsive pleading or defensive motion to a complaint brought under this section and before trial, the parties or their designated representatives shall meet in mediation to discuss the issues of liability and damages in accordance with this paragraph for the purpose of an early resolution of the matter.~~

~~1. Within 60 days after the filing of the responsive pleading or defensive motion, the parties shall:~~

~~a. Agree on a mediator. If the parties cannot agree on a mediator, the defendant shall immediately notify the court, which shall appoint a mediator within 10 days after such notice.~~

~~b. Set a date for mediation.~~

~~c. Prepare an order for the court that identifies the mediator, the scheduled date of the mediation, and other terms of the mediation. Absent any disagreement between the parties, the court may issue the order for the mediation submitted by the parties without a hearing.~~

~~2. The mediation must be concluded within 120 days after the filing of a responsive pleading or defensive motion. The date may be extended only by agreement of all parties subject to mediation under this subsection.~~

~~3. The mediation shall be conducted in the following manner:~~

~~a. Each party shall ensure that all persons necessary for complete settlement authority are present at the mediation.~~

~~b. Each party shall mediate in good faith.~~

~~4. All aspects of the mediation which are not specifically established by this subsection must be conducted according to the rules of practice and procedure adopted by the Supreme Court of this state.~~

~~(b) If the parties do not settle the case pursuant to mediation, the last offer of the defendant made at mediation shall be recorded by the mediator in a written report that states the amount of the offer, the date the offer was made in writing, and the date the offer was rejected. If the matter subsequently proceeds to trial under this section and the plaintiff prevails but is awarded an amount in damages, exclusive of attorney's fees, which is equal to or less than the last offer made by the defendant at mediation, the plaintiff is not entitled to recover any attorney's fees.~~

~~(c) This subsection applies only to claims for liability and damages and does not apply to actions for injunctive relief.~~

~~(d) This subsection applies to all causes of action that accrue on or after October 1, 1999.~~

(5)~~(3)~~ Discovery of financial information for the purpose of determining the value of punitive damages may not be had unless the plaintiff shows the court by proffer or evidence in the record that a reasonable basis exists to support a claim for punitive damages.

(6)~~(4)~~ In addition to any other standards for punitive damages, any award of punitive damages must be reasonable in light of the actual harm suffered by the resident and the egregiousness of the conduct that caused the actual harm to the resident.

(7) The resident or the resident's legal representative shall serve a copy of any complaint alleging in whole or in part a violation of any rights specified in this part to the Agency for Health Care Administration at the time of filing the initial complaint with the clerk of the court for the county in which the action is pursued. The requirement of providing a copy of the complaint to the agency does not impair the resident's legal rights or ability to seek relief for his or her claim.

Section 39. Effective May 15, 2001, and applying to causes of action accruing on or after that date, section 400.4293, Florida Statutes, is created to read:

400.4293 Presuit notice; investigation; notification of violation of residents' rights or alleged negligence; claims evaluation procedure; informal discovery; review.—

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

(a) "Claim for residents' rights violation or negligence" means a negligence claim alleging injury to or the death of a resident arising out of an asserted violation of the rights of a resident under s. 400.428 or an asserted deviation from the applicable standard of care.

(b) "Insurer" means any self-insurer authorized under s. 627.357, liability insurance carrier, Joint Underwriting Association, or any uninsured prospective defendant.

(2) Prior to filing a claim for a violation of a resident's rights or a claim for negligence, a claimant alleging injury to or the death of a resident shall notify each prospective defendant by certified mail, return receipt requested, of an asserted violation of a resident's rights provided in s. 400.428 or deviation from the standard of care. Such notification shall include an identification of the rights the prospective defendant has violated and the negligence alleged to have caused the incident or incidents and a brief description of the injuries sustained by the resident which are reasonably identifiable at the time of notice. The notice shall contain a certificate of counsel that counsel's reasonable investigation gave rise to a good-faith belief that grounds exist for an action against each prospective defendant.

(3)(a) No suit may be filed for a period of 75 days after notice is mailed to any prospective defendant. During the 75-day period, the prospective defendants or their insurers shall conduct an evaluation of the claim to determine the liability of each defendant and to evaluate the damages of the claimants. Each defendant or insurer of the defendant shall have a procedure for the prompt evaluation of claims during the 75-day period. The procedure shall include one or more of the following:

1. Internal review by a duly qualified facility risk manager or claims adjuster;

2. Internal review by counsel for each prospective defendant;

3. A quality assurance committee authorized under any applicable state or federal statutes or regulations;

4. Any other similar procedure that fairly and promptly evaluates the claims.

Each defendant or insurer of the defendant shall evaluate the claim in good faith.

(b) At or before the end of the 75 days, the defendant or insurer of the defendant shall provide the claimant with a written response:

1. Rejecting the claim; or

2. Making a settlement offer.

(c) The response shall be delivered to the claimant if not represented by counsel or to the claimant's attorney, by certified mail, return receipt requested. Failure of the prospective defendant or insurer of the defendant to reply to the notice within 75 days after receipt shall be deemed a rejection of the claim for purposes of this section.

(4) The notification of a violation of a resident's rights or alleged negligence shall be served within the applicable statute of limitations period; however, during the 75-day period, the statute of limitations is tolled as to all prospective defendants. Upon stipulation by the parties, the 75-day period may be extended and the statute of limitations is tolled during any such extension. Upon receiving written notice by certified mail, return receipt requested, of termination of negotiations in an extended period, the claimant shall have 60 days or the remainder of the period of the statute of limitations, whichever is greater, within which to file suit.

(5) No statement, discussion, written document, report, or other work product generated by presuit claims evaluation procedures under this section is discoverable or admissible in any civil action for any purpose by the opposing party. All participants, including, but not limited to, physicians, investigators, witnesses, and employees or associates of the defendant, are immune from civil liability arising from participation in the presuit claims evaluation procedure. Any licensed physician or registered nurse may be retained by either party to provide an opinion regarding the reasonable basis of the claim. The presuit opinions of the expert are not discoverable or admissible in any civil action for any purpose by the opposing party.

(6) Upon receipt by a prospective defendant of a notice of claim, the parties shall make discoverable information available without formal discovery as provided in subsection (7).

(7) Informal discovery may be used by a party to obtain unsworn statements and the production of documents or things, as follows:

(a) Unsworn statements.—Any party may require other parties to appear for the taking of an unsworn statement. Such statements may be used only for the purpose of claims evaluation and are not discoverable or admissible in any civil action for any purpose by any party. A party seeking to take the unsworn statement of any party must give reasonable notice in writing to all parties. The notice must state the time and place for taking the statement and the name and address of the party to be examined. Unless otherwise impractical, the examination of any party must be done at the same time by all other parties. Any party may be represented by counsel at the taking of an unsworn statement. An unsworn statement may be recorded electronically, stenographically, or on videotape. The taking of unsworn statements is subject to the provisions of the Florida Rules of Civil Procedure and may be terminated for abuses.

(b) Documents or things.—Any party may request discovery of relevant documents or things. The documents or things must be produced, at the expense of the requesting party, within 20 days after the date of receipt of the request. A party is required to produce relevant and discoverable documents or things within that party's possession or control, if in good faith it can reasonably be done within the timeframe of the claims evaluation process.

(8) Each request for and notice concerning informal discovery pursuant to this section must be in writing, and a copy thereof must be sent to all parties. Such a request or notice must bear a certificate of service identifying the name and address of the person to whom the request or notice is served, the date of the request or notice, and the manner of service thereof.

(9) If a prospective defendant makes a written settlement offer, the claimant shall have 15 days from the date of receipt to accept the offer. An offer shall be deemed rejected unless accepted by delivery of a written notice of acceptance.

(10) To the extent not inconsistent with this part, the provisions of the Florida Mediation Code, Florida Rules of Civil Procedure, shall be applicable to such proceedings.

(11) Within 30 days after the claimant's receipt of defendant's response to the claim, the parties or their designated representatives shall meet in mediation to discuss the issues of liability and damages in accordance with the mediation rules of practice and procedures adopted by the Supreme Court. Upon stipulation of the parties, this 30-day period may be extended and the statute of limitations is tolled during the mediation and any such extension. At the conclusion of mediation the claimant shall have 60 days or the remainder of the period of the statute of limitations, whichever is greater, within which to file suit.

Section 40. Effective May 15, 2001, and applying to causes of action accruing on or after that date, section 400.4294, Florida Statutes, is created to read:

400.4294 Availability of facility records for investigation of resident's rights violations and defenses; penalty.—

(1) Failure to provide complete copies of a resident's records including, but not limited to, all medical records and the resident's chart, within the control or possession of the facility within 10 days, in accordance with the provisions of s. 400.145, shall constitute evidence of failure of that party to comply with good-faith discovery requirements and shall waive the good-faith certificate and presuit notice requirements under this part by the requesting party.

(2) No facility shall be held liable for any civil damages as a result of complying with this section.

Section 41. Effective May 15, 2001, and applying to causes of action accruing on or after that date, section 400.4295, Florida Statutes, is created to read:

400.4295 Certain provisions not applicable to actions under this part.—An action under this part for a violation of rights or negligence recognized herein is not a claim for medical malpractice, and the provisions of s. 768.21(8) do not apply to a claim alleging death of the resident.

Section 42. Effective May 15, 2001, section 400.4296, Florida Statutes, is created to read:

400.4296 Statute of limitations.—

(1) Any action for damages brought under this part shall be commenced within 2 years from the time the incident giving rise to the action occurred or within 2 years from the time the incident is discovered, or should have been discovered with the exercise of due diligence; however, in no event shall the action be commenced later than 4 years from the date of the incident or occurrence out of which the cause of action accrued.

(2) In those actions covered by this subsection in which it can be shown that fraudulent concealment or intentional misrepresentation of fact prevented the discovery of the injury, the period of limitations is extended forward 2 years from the time that the injury is discovered with the exercise of due diligence, but in no event not more than 6 years from the date the incident giving rise to the injury occurred.

(3) This section shall apply to causes of action that have accrued prior to the effective date of this section; however, any such cause of action that would not have been barred under prior law may be brought within the time allowed by prior law or within 2 years after the effective date of this section, whichever is earlier, and will be barred thereafter. In actions where it can be shown that fraudulent concealment or intentional misrepresentation of fact prevented the discovery of the injury, the period of limitations is extended forward 2 years from the time that the injury is discovered with the exercise of due diligence but in no event more than 4 years from the effective date of this section.

Section 43. Section 400.4297, Florida Statutes, is created to read:

400.4297 Punitive damages; pleading; burden of proof.—

(1) In any action for damages brought under this part, no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages. The claimant may move to amend her or his complaint to assert a claim for punitive damages as allowed by the rules of civil procedure. The rules of civil procedure shall be liberally construed so as to allow the claimant discovery of evidence which appears reasonably calculated to lead to admissible evidence on the issue of punitive damages. No discovery of financial worth shall proceed until after the pleading concerning punitive damages is permitted.

(2) A defendant may be held liable for punitive damages only if the trier of fact, based on clear and convincing evidence, finds that the defendant was personally guilty of intentional misconduct or gross negligence. As used in this section, the term:

(a) "Intentional misconduct" means that the defendant had actual knowledge of the wrongfulness of the conduct and the high probability that injury or damage to the claimant would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury or damage.

(b) "Gross negligence" means that the defendant's conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct.

(3) In the case of an employer, principal, corporation, or other legal entity, punitive damages may be imposed for the conduct of an employee or agent only if the conduct of the employee or agent meets the criteria specified in subsection (2) and:

(a) The employer, principal, corporation, or other legal entity actively and knowingly participated in such conduct;

(b) The officers, directors, or managers of the employer, principal, corporation, or other legal entity condoned, ratified, or consented to such conduct; or

(c) The employer, principal, corporation, or other legal entity engaged in conduct that constituted gross negligence and that contributed to the loss, damages, or injury suffered by the claimant.

(4) The plaintiff must establish at trial, by clear and convincing evidence, its entitlement to an award of punitive damages. The "greater weight of the evidence" burden of proof applies to a determination of the amount of damages.

(5) This section is remedial in nature and shall take effect upon becoming a law.

Section 44. Section 400.4298, Florida Statutes, is created to read:

400.4298 Punitive damages; limitation.—

(1)(a) Except as provided in paragraphs (b) and (c), an award of punitive damages may not exceed the greater of:

1. Three times the amount of compensatory damages awarded to each claimant entitled thereto, consistent with the remaining provisions of this section; or

2. The sum of $1 million.

(b) Where the fact finder determines that the wrongful conduct proven under this section was motivated primarily by unreasonable financial gain and determines that the unreasonably dangerous nature of the conduct, together with the high likelihood of injury resulting from the conduct, was actually known by the managing agent, director, officer, or other person responsible for making policy decisions on behalf of the defendant, it may award an amount of punitive damages not to exceed the greater of:

1. Four times the amount of compensatory damages awarded to each claimant entitled thereto, consistent with the remaining provisions of this section; or

2. The sum of $4 million.

(c) Where the fact finder determines that at the time of injury the defendant had a specific intent to harm the claimant and determines that the defendant's conduct did in fact harm the claimant, there shall be no cap on punitive damages.

(d) This subsection is not intended to prohibit an appropriate court from exercising its jurisdiction under s. 768.74 in determining the reasonableness of an award of punitive damages that is less than three times the amount of compensatory damages.

(e) In any case in which the findings of fact support an award of punitive damages pursuant to paragraph (b) or paragraph (c), the clerk of the court shall refer the case to the appropriate law enforcement agencies, to the state attorney in the circuit where the long-term care facility that is the subject of the underlying civil cause of action is located, and, for multijurisdictional facility owners, to the Office of the Statewide Prosecutor; and such agencies, state attorney, or Office of the Statewide Prosecutor shall initiate a criminal investigation into the conduct giving rise to the award of punitive damages. All findings by the trier of fact which support an award of punitive damages under this paragraph shall be admissible as evidence in any subsequent civil or criminal proceeding relating to the acts giving rise to the award of punitive damages under this paragraph.

(2) The claimant's attorney's fees, if payable from the judgment, are, to the extent that the fees are based on the punitive damages, calculated

based on the final judgment for punitive damages. This subsection does not limit the payment of attorney's fees based upon an award of damages other than punitive damages.

(3) The jury may neither be instructed nor informed as to the provisions of this section.

(4) Notwithstanding any other law to the contrary, the amount of punitive damages awarded pursuant to this section shall be equally divided between the claimant and the Quality of Long-Term Care Facility Improvement Trust Fund, in accordance with the following provisions:

(a) The clerk of the court shall transmit a copy of the jury verdict to the State Treasurer by certified mail. In the final judgment the court shall order the percentages of the award, payable as provided herein.

(b) A settlement agreement entered into between the original parties to the action after a verdict has been returned must provide a proportionate share payable to the Quality of Long-Term Care Facility Improvement Trust Fund specified herein. For purposes of this paragraph, a proportionate share is a 50-percent share of that percentage of the settlement amount which the punitive damages portion of the verdict bore to the total of the compensatory and punitive damages in the verdict.

(c) The Department of Banking and Finance shall collect or cause to be collected all payments due the state under this section. Such payments are made to the Comptroller and deposited in the appropriate fund specified in this subsection.

(d) If the full amount of punitive damages awarded cannot be collected, the claimant and the other recipient designated pursuant to this subsection are each entitled to a proportionate share of the punitive damages collected.

(5) This section is remedial in nature and shall take effect upon becoming a law.

Section 45. Section 400.434, Florida Statutes, is amended to read:

400.434 Right of entry and inspection.—Any duly designated officer or employee of the department, the Department of Children and Family Services, the agency, the state or local fire marshal, or a member of the state or local long-term care ombudsman council shall have the right to enter unannounced upon and into the premises of any facility licensed pursuant to this part in order to determine the state of compliance with the provisions of this part and of rules or standards in force pursuant thereto. The right of entry and inspection shall also extend to any premises which the agency has reason to believe is being operated or maintained as a facility without a license; but no such entry or inspection of any premises may be made without the permission of the owner or person in charge thereof, unless a warrant is first obtained from the circuit court authorizing such entry. The warrant requirement shall extend only to a facility which the agency has reason to believe is being operated or maintained as a facility without a license. Any application for a license or renewal thereof made pursuant to this part shall constitute permission for, and complete acquiescence in, any entry or inspection of the premises for which the license is sought, in order to facilitate verification of the information submitted on or in connection with the application; to discover, investigate, and determine the existence of abuse or neglect; or to elicit, receive, respond to, and resolve complaints. Any current valid license shall constitute unconditional permission for, and complete acquiescence in, any entry or inspection of the premises by authorized personnel. The agency shall retain the right of entry and inspection of facilities that have had a license revoked or suspended within the previous 24 months, to ensure that the facility is not operating unlawfully. However, before entering the facility, a statement of probable cause must be filed with the director of the agency, who must approve or disapprove the action within 48 hours. Probable cause shall include, but is not limited to, evidence that the facility holds itself out to the public as a provider of personal care services or the receipt of a complaint by the long-term care ombudsman council about the facility. *Data collected by the state or local long-term care ombudsman councils or the state or local advocacy councils may be used by the agency in investigations involving violations of regulatory standards.*

Section 46. Paragraph (h) of subsection (1) and subsection (4) of section 400.441, Florida Statutes, are amended to read:

400.441 Rules establishing standards.—

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

(h) The care and maintenance of residents, which must include, but is not limited to:

1. The supervision of residents;

2. The provision of personal services;

3. The provision of, or arrangement for, social and leisure activities;

4. The arrangement for appointments and transportation to appropriate medical, dental, nursing, or mental health services, as needed by residents;

5. The management of medication;

6. The nutritional needs of residents; ~~and~~

7. Resident records*; and*~~.~~

8. Internal risk management and quality assurance.

(4) The agency may use an abbreviated biennial *standard licensure* inspection *that* ~~which~~ consists of a review of key quality-of-care standards in lieu of a full inspection in facilities which have a good record of past performance. However, a full inspection shall be conducted in facilities which have had a history of class I or class II violations, uncorrected class III violations, confirmed ombudsman council complaints, or confirmed licensure complaints, within the previous licensure period immediately preceding the inspection or when a potentially serious problem is identified during the abbreviated inspection. The agency, in consultation with the department, shall develop the key quality-of-care standards with input from the State Long-Term Care Ombudsman Council and representatives of provider groups for incorporation into its rules. ~~Beginning on or before March 1, 1991,~~ The department, in consultation with the agency, shall report annually to the Legislature concerning its implementation of this subsection. The report shall include, at a minimum, the key quality-of-care standards which have been developed; the number of facilities identified as being eligible for the abbreviated inspection; the number of facilities which have received the abbreviated inspection and, of those, the number that were converted to full inspection; the number and type of subsequent complaints received by the agency or department on facilities which have had abbreviated inspections; any recommendations for modification to this subsection; any plans by the agency to modify its implementation of this subsection; and any other information which the department believes should be reported.

Section 47. Section 400.449, Florida Statutes, is created to read:

400.449 Resident records; penalties for alteration.—

(1) Any person who fraudulently alters, defaces, or falsifies any medical or other record of an assisted living facility, or causes or procures any such offense to be committed, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A conviction under subsection (1) is also grounds for restriction, suspension, or termination of license privileges.

Section 48. Paragraph (b) of subsection (2) of section 409.908, Florida Statutes, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(2)

(b) Subject to any limitations or directions provided for in the General Appropriations Act, the agency shall establish and implement a Florida Title XIX Long-Term Care Reimbursement Plan (Medicaid) for nursing home care in order to provide care and services in conformance with the applicable state and federal laws, rules, regulations, and quality and safety standards and to ensure that individuals eligible for medical assistance have reasonable geographic access to such care.

1. Changes of ownership or of licensed operator do not qualify for increases in reimbursement rates associated with the change of ownership or of licensed operator. The agency shall amend the Title XIX Long Term Care Reimbursement Plan to provide that the initial nursing home reimbursement rates, for the operating, patient care, and MAR components, associated with changes of ownership filed on or after July 1, 2001, are equivalent to the previous owner's reimbursement rate.

2. The agency shall amend the long-term care reimbursement plan and cost reporting system to create direct care and indirect care subcomponents of the patient care component of the per diem rate. These two subcomponents together shall equal the patient care component of the per diem rate. Separate cost-based ceilings shall be calculated for each patient care subcomponent. The direct care subcomponent of the per diem rate shall be limited by the cost-based class ceiling and the indirect care subcomponent shall be limited by the lower of the cost-based class ceiling, by the target rate class ceiling or by the individual provider target. The agency shall adjust the direct care subcomponent effective October 1, 2001. The cost to adjust the direct care subcomponent shall be net of the total funds previously allocated for the case mix add-on. The indirect subcomponent shall not be adjusted and the individual provider targets, and the target rate class ceilings for the indirect care subcomponent shall be lowered proportionately to account for the separation of costs into a direct and an indirect care subcomponent. The agency shall make the required changes to the nursing home cost reporting forms to implement this requirement effective January 1, 2002.

3. The direct care subcomponent shall include salaries and benefits of direct care staff providing nursing services including registered nurses, licensed practical nurses, and certified nursing assistants who deliver care directly to residents in the nursing home facility. This excludes nursing administration, MDS, and care plan coordinators, staff development, staffing coordinator, and contract nursing services.

4. All other patient care costs shall be included in the indirect care cost subcomponent of the patient care per diem rate. There shall be no costs directly or indirectly allocated to the direct care subcomponent from a home office or management company.

5. On July 1 of each year, the agency shall report to the Legislature direct and indirect care costs, including average direct and indirect care costs per resident per facility and direct care and indirect care salaries and benefits per category of staff member per facility.

6. Under the plan, interim rate adjustments shall not be granted to reflect increases in the cost of general or professional liability insurance for nursing homes unless the following criteria are met: have at least a 65 percent Medicaid utilization in the most recent cost report submitted to the agency, and the increase in general or professional liability costs to the facility for the most recent policy period affects the total Medicaid per diem by at least 5 percent. This rate adjustment shall not result in the per diem exceeding the class ceiling. This provision shall ~~apply only to fiscal year 2000-2001 and shall~~ be implemented to the extent existing appropriations are available. ~~The agency shall report to the Governor, the Speaker of the House of Representatives, and the President of the Senate by December 31, 2000, on the cost of liability insurance for Florida nursing homes for fiscal years 1999 and 2000 and the extent to which these costs are not being compensated by the Medicaid program. Medicaid-participating nursing homes shall be required to report to the agency information necessary to compile this report. Effective no earlier than the rate-setting period beginning April 1, 1999, the agency shall establish a case-mix reimbursement methodology for the rate of payment for long-term care services for nursing home residents. The agency shall compute a per diem rate for Medicaid residents, adjusted for case mix, which is based on a resident classification system that accounts for the relative resource utilization by different types of residents and which is based on level-of-care data and other appropriate data. The case-mix methodology developed by the agency shall take into account the medical, behavioral, and cognitive deficits of residents. In developing the reimbursement methodology, the agency shall evaluate and modify other aspects of the reimbursement plan as necessary to improve the overall effectiveness of the plan with respect to the costs of patient care, operating costs, and property costs. In the event adequate data are not available, the agency is authorized to adjust the patient's care component or the per diem rate to more adequately cover the cost of services provided in the patient's care component. The agency shall work with the Department of Elderly Affairs, the Florida Health Care Association, and the Florida Association of Homes for the Aging in developing the methodology.~~

It is the intent of the Legislature that the reimbursement plan achieve the goal of providing access to health care for nursing home residents who require large amounts of care while encouraging diversion services as an alternative to nursing home care for residents who can be served within the community. The agency shall base the establishment of any maximum rate of payment, whether overall or component, on the available moneys as provided for in the General Appropriations Act. The agency may base the maximum rate of payment on the results of scientifically valid analysis and conclusions derived from objective statistical data pertinent to the particular maximum rate of payment.

Section 49. Subsections (2) and (3) of section 430.709, Florida Statutes, are amended to read:

430.709 Reports and evaluations.—

(2) The *agency, in consultation with the* department*,* shall contract for an independent evaluation of the community diversion pilot projects. Such evaluation must include a careful review and assessment of the actual cost for the provision of services to *enrollees* ~~participants~~. *No later than 120 days after the effective date of this section, the agency shall select a contractor with experience and expertise in evaluating capitation rates for managed care organizations serving a disabled or frail elderly population to conduct the evaluation of the community diversion pilot project as defined in s. 430.703. The contractor shall demonstrate the capacity to evaluate managed care arrangements that seek to test the blending of Medicaid and Medicare capitation as a strategy to provide efficient, cost-effective care. The contractor shall report to the agency and the Legislature the specific array of services provided to each enrollee, the average number of times per week each service was provided, the unit cost and total cost per week to provide the service, the total cost of all services provided to the enrollee, and the enrollment period for which total costs*

were calculated. In addition, the contractor shall report to the agency and the Legislature the total number of enrollees to date; the total payment to the managed care organization for enrollees; the number of enrollees who have been admitted to a nursing facility; the total number of days enrollees have spent in nursing home facilities; the number of enrollees who have disenrolled from the project; the average length of time participants were enrolled, expressed as the mean number of days and standard deviation; the number of persons who disenrolled and subsequently became a nursing home resident; the number of enrollees who have died while enrolled in the project and the mean number of days enrolled prior to death; the list of available services delivered in-home by percentage of enrollees receiving the service; the list of available services delivered out-of-home by percentage of enrollees receiving the service. The evaluation contractor shall analyze and report the individual services and the array of services most associated with effective diversion of frail elderly enrollees from nursing home placement. Further, the contractor will evaluate the project responses to at least the following questions:

(a) Was the cost of the diversion project per person less than the cost of providing services through fee-for-service Medicaid?

(b) Did the diversion project increase access to physical health care, mental health care, and social services?

(c) Did the diversion project maintain or improve the quality of care and quality of life of the participants?

(d) What was the functional status of participants before enrolling in the diversion project, and what was the functional status at various points during and after enrollment?

(e) How many participants disenrolled and at what point after enrolling?

(f) Why did participants disenroll?

(g) Did the department develop specialized contract standards and quality assurance measures?

(h) Did the department assess quality of care, appropriateness of care claims data analysis, and consumer self-report data?

(i) Does the cost analysis show savings to the state?

(j) What were the results of recipient profile and enrollment analyses?

(k) What were the results of the family satisfaction and consumer outcome analyses?

(l) How did hospital admissions and preventable readmissions differ among nursing home enrollees in the diversion project, nursing home residents not in the project, and frail elders living in the community? Did payer or provider type have a significant relationship to the number of hospital admissions?

(m) What agencies or providers did the diversion project contractor engage to provide noninstitutional services?

(n) Was there a volume-outcome or dose-response relationship between the utilization rate of noninstitutional services, functional assessment, and the ability of the enrollee to remain in the community?

(3) *The evaluation contractor shall submit the final report to the Speaker of the House of Representatives and the President of the Senate on or before February 15, 2002. Subsequent to the completion of the evaluation and submission of the evaluation report to the Legislature,* the *agency, in consultation with the* department, ~~in consultation with the agency,~~ shall assess *and make specific recommendations to the Legislature as to* the feasibility of implementing a managed long-term care system throughout the state to serve appropriate Medicaid-eligible long-term care recipients age 60 years and older.

Section 50. Section 464.203, Florida Statutes, is amended to read:

464.203 Certified nursing assistants; certification requirement.—

(1) The board shall issue a certificate to practice as a certified nursing assistant to any person who demonstrates a minimum competency to read and write and successfully passes the required Level I or Level II screening pursuant to s. 400.215 and meets one of the following requirements:

(a) Has successfully completed an approved training program and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion approved by the board and administered at a site and by personnel approved by the department.

(b) Has achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department and:

1. Has a high school diploma, or its equivalent; or

2. Is at least 18 years of age.

(c) Is currently certified in another state; is listed on that state's certified nursing assistant registry; and has not been found to have committed abuse, neglect, or exploitation in that state.

(d) Has completed the curriculum developed under the Enterprise Florida Jobs and Education Partnership Grant and achieved a minimum score, established by rule of the board, on the nursing assistant competency examination, which consists of a written portion and skills-demonstration portion, approved by the board and administered at a site and by personnel approved by the department.

(2) If an applicant fails to pass the nursing assistant competency examination in three attempts, the applicant is not eligible for reexamination unless the applicant completes an approved training program.

(3) An oral examination shall be administered as a substitute for the written portion of the examination upon request. The oral examination shall be administered at a site and by personnel approved by the department.

(4) The board shall adopt rules to provide for the initial certification of certified nursing assistants.

(5) Certification as a nursing assistant, in accordance with this part, continues in effect until such time as the nursing assistant allows a period of 24 consecutive months to pass during which period the nursing assistant fails to perform any nursing-related services for monetary compensation. When a nursing assistant fails to perform any nursing-related services for monetary compensation for a period of 24 consecutive months, the nursing assistant must complete a new training and competency evaluation program or a new competency evaluation program.

(6)~~(5)~~ A certified nursing assistant shall maintain a current address with the board in accordance with s. 456.035.

(7) A certified nursing assistant shall complete 18 hours of inservice training during each calendar year. The certified nursing assistant shall be responsible for maintaining documentation demonstrating compliance with these provisions. The Council on Certified Nursing Assistants, in accordance with s. 464.0285(2)(b), shall propose rules to implement this subsection.

Section 51. Subsection (2) of section 397.405, Florida Statutes, is amended to read:

397.405 Exemptions from licensure.—The following are exempt from the licensing provisions of this chapter:

(2) A nursing home facility as defined in *s. 400.021* ~~s. 400.021(12)~~.

The exemptions from licensure in this section do not apply to any facility or entity which receives an appropriation, grant, or contract from the state to operate as a service provider as defined in this chapter or to any substance abuse program regulated pursuant to s. 397.406. No provision of this chapter shall be construed to limit the practice of a physician

licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a psychotherapist licensed under chapter 491, providing outpatient or inpatient substance abuse treatment to a voluntary patient, so long as the physician, psychologist, or psychotherapist does not represent to the public that he or she is a licensed service provider under this act. Failure to comply with any requirement necessary to maintain an exempt status under this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 52. *Notwithstanding the establishment of need as provided for in chapter 408, Florida Statutes, no certificate of need for additional community nursing home beds shall be approved by the agency until July 1, 2006. The Legislature finds that the continued growth in the Medicaid budget for nursing home care has constrained the ability of the state to meet the needs of its elderly residents through the use of less restrictive and less institutional methods of long-term care. It is therefore the intent of the Legislature to limit the increase in Medicaid nursing home expenditures in order to provide funds to invest in long-term care that is community-based and provides supportive services in a manner that is both more cost-effective and more in keeping with the wishes of the elderly residents of this state. This moratorium on certificates of need shall not apply to nursing home beds that are not eligible for Medicaid reimbursement in a continuing care retirement community certified by the Department of Insurance pursuant to chapter 651, Florida Statutes.*

Section 53. Subsections (3) and (8) of section 400.0255, Florida Statutes, as amended by section 138 of chapter 2000-349, section 3 of chapter 2000-350, and section 58 of chapter 2000-367, Laws of Florida, are reenacted to read:

400.0255 Resident transfer or discharge; requirements and procedures; hearings.—

(3) When a discharge or transfer is initiated by the nursing home, the nursing home administrator employed by the nursing home that is discharging or transferring the resident, or an individual employed by the nursing home who is designated by the nursing home administrator to act on behalf of the administration, must sign the notice of discharge or transfer. Any notice indicating a medical reason for transfer or discharge must either be signed by the resident's attending physician or the medical director of the facility, or include an attached written order for the discharge or transfer. The notice or the order must be signed by the resident's physician, medical director, treating physician, nurse practitioner, or physician assistant.

(8) The notice required by subsection (7) must be in writing and must contain all information required by state and federal law, rules, or regulations applicable to Medicaid or Medicare cases. The agency shall develop a standard document to be used by all facilities licensed under this part for purposes of notifying residents of a discharge or transfer. Such document must include a means for a resident to request the local long-term care ombudsman council to review the notice and request information about or assistance with initiating a fair hearing with the department's Office of Appeals Hearings. In addition to any other pertinent information included, the form shall specify the reason allowed under federal or state law that the resident is being discharged or transferred, with an explanation to support this action. Further, the form shall state the effective date of the discharge or transfer and the location to which the resident is being discharged or transferred. The form shall clearly describe the resident's appeal rights and the procedures for filing an appeal, including the right to request the local ombudsman council to review the notice of discharge or transfer. A copy of the notice must be placed in the resident's clinical record, and a copy must be transmitted to the resident's legal guardian or representative and to the local ombudsman council within 5 business days after signature by the resident or resident designee.

Section 54. Subsection (5) of section 400.23, Florida Statutes, as amended by section 6 of chapter 2000-350, Laws of Florida, is reenacted to read:

400.23 Rules; evaluation and deficiencies; licensure status.—

(5) The agency, in collaboration with the Division of Children's Medical Services of the Department of Health, must, no later than December 31, 1993, adopt rules for minimum standards of care for persons under 21 years of age who reside in nursing home facilities. The rules must include a methodology for reviewing a nursing home facility under ss. 408.031-408.045 which serves only persons under 21 years of age. A facility may be exempt from these standards for specific persons between 18 and 21 years of age, if the person's physician agrees that minimum standards of care based on age are not necessary.

Section 55. Subsection (2) of section 400.191, Florida Statutes, as amended by section 5 of chapter 2000-350, Laws of Florida, and subsection (6) of that section, as created by section 5 of chapter 2000-350, Laws of Florida, are reenacted to read:

400.191 Availability, distribution, and posting of reports and records.—

(2) The agency shall provide additional information in consumer-friendly printed and electronic formats to assist consumers and their families in comparing and evaluating nursing home facilities.

(a) The agency shall provide an Internet site which shall include at least the following information either directly or indirectly through a link to another established site or sites of the agency's choosing:

1. A list by name and address of all nursing home facilities in this state.

2. Whether such nursing home facilities are proprietary or nonproprietary.

3. The current owner of the facility's license and the year that that entity became the owner of the license.

4. The name of the owner or owners of each facility and whether the facility is affiliated with a company or other organization owning or managing more than one nursing facility in this state.

5. The total number of beds in each facility.

6. The number of private and semiprivate rooms in each facility.

7. The religious affiliation, if any, of each facility.

8. The languages spoken by the administrator and staff of each facility.

9. Whether or not each facility accepts Medicare or Medicaid recipients or insurance, health maintenance organization, Veterans Administration, CHAMPUS program, or workers' compensation coverage.

10. Recreational and other programs available at each facility.

11. Special care units or programs offered at each facility.

12. Whether the facility is a part of a retirement community that offers other services pursuant to part III, part IV, or part V.

13. The results of consumer and family satisfaction surveys for each facility, as described in s. 400.0225. The results may be converted to a score or scores, which may be presented in either numeric or symbolic form for the intended consumer audience.

14. Survey and deficiency information contained on the Online Survey Certification and Reporting (OSCAR) system of the federal Health Care Financing Administration, including annual survey, revisit, and complaint survey information, for each facility for the past 45 months. For noncertified nursing homes, state survey and deficiency information, including annual survey, revisit, and complaint survey information for the past 45 months shall be provided.

15. A summary of the Online Survey Certification and Reporting (OSCAR) data for each facility over the past 45 months. Such summary may include a score, rating, or comparison ranking with respect to other facilities based on the number of citations received by the facility of annual, revisit, and complaint surveys; the severity and scope of the citations; and the number of annual recertification surveys the facility has had during the past 45 months. The score, rating, or comparison

ranking may be presented in either numeric or symbolic form for the intended consumer audience.

(b) The agency shall provide the following information in printed form:

1. A list by name and address of all nursing home facilities in this state.

2. Whether such nursing home facilities are proprietary or nonproprietary.

3. The current owner or owners of the facility's license and the year that entity became the owner of the license.

4. The total number of beds, and of private and semiprivate rooms, in each facility.

5. The religious affiliation, if any, of each facility.

6. The name of the owner of each facility and whether the facility is affiliated with a company or other organization owning or managing more than one nursing facility in this state.

7. The languages spoken by the administrator and staff of each facility.

8. Whether or not each facility accepts Medicare or Medicaid recipients or insurance, health maintenance organization, Veterans Administration, CHAMPUS program, or workers' compensation coverage.

9. Recreational programs, special care units, and other programs available at each facility.

10. The results of consumer and family satisfaction surveys for each facility, as described in s. 400.0225. The results may be converted to a score or scores, which may be presented in either numeric or symbolic form for the intended consumer audience.

11. The Internet address for the site where more detailed information can be seen.

12. A statement advising consumers that each facility will have its own policies and procedures related to protecting resident property.

13. A summary of the Online Survey Certification and Reporting (OSCAR) data for each facility over the past 45 months. Such summary may include a score, rating, or comparison ranking with respect to other facilities based on the number of citations received by the facility on annual, revisit, and complaint surveys; the severity and scope of the citations; the number of citations; and the number of annual recertification surveys the facility has had during the past 45 months. The score, rating, or comparison ranking may be presented in either numeric or symbolic form for the intended consumer audience.

(c) For purposes of this subsection, references to the Online Survey Certification and Reporting (OSCAR) system shall refer to any future system that the Health Care Financing Administration develops to replace the current OSCAR system.

(d) The agency may provide the following additional information on an Internet site or in printed form as the information becomes available:

1. The licensure status history of each facility.

2. The rating history of each facility.

3. The regulatory history of each facility, which may include federal sanctions, state sanctions, federal fines, state fines, and other actions.

4. Whether the facility currently possesses the Gold Seal designation awarded pursuant to s. 400.235.

5. Internet links to the Internet sites of the facilities or their affiliates.

(6) The agency may adopt rules as necessary to administer this section.

Section 56. Section 400.0225, Florida Statutes, as amended by section 2 of chapter 2000-350, Laws of Florida, is reenacted to read:

400.0225 Consumer satisfaction surveys.—The agency, or its contractor, in consultation with the nursing home industry and consumer representatives, shall develop an easy-to-use consumer satisfaction survey, shall ensure that every nursing facility licensed pursuant to this part participates in assessing consumer satisfaction, and shall establish procedures to ensure that, at least annually, a representative sample of residents of each facility is selected to participate in the survey. The sample shall be of sufficient size to allow comparisons between and among facilities. Family members, guardians, or other resident designees may assist the resident in completing the survey. Employees and volunteers of the nursing facility or of a corporation or business entity with an ownership interest in the facility are prohibited from assisting a resident with or attempting to influence a resident's responses to the consumer satisfaction survey. The agency, or its contractor, shall survey family members, guardians, or other resident designees. The agency, or its contractor, shall specify the protocol for conducting and reporting the consumer satisfaction surveys. Reports of consumer satisfaction surveys shall protect the identity of individual respondents. The agency shall contract for consumer satisfaction surveys and report the results of those surveys in the consumer information materials prepared and distributed by the agency. The agency may adopt rules as necessary to administer this section.

Section 57. Subsections (4) and (5) of section 400.141, Florida Statutes, as renumbered and amended by section 4 of chapter 2000-350, Laws of Florida, are reenacted to read:

400.141 Administration and management of nursing home facilities.—Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(4) Provide for resident use of a community pharmacy as specified in s. 400.022(1)(q). Any other law to the contrary notwithstanding, a registered pharmacist licensed in Florida, that is under contract with a facility licensed under this chapter, shall repackage a nursing facility resident's bulk prescription medication which has been packaged by another pharmacist licensed in any state in the United States into a unit dose system compatible with the system used by the nursing facility, if the pharmacist is requested to offer such service. To be eligible for repackaging, a resident or the resident's spouse must receive prescription medication benefits provided through a former employer as part of his or her retirement benefits a qualified pension plan as specified in s. 4972 of the Internal Revenue Code, a federal retirement program as specified under 5 C.F.R. s. 831, or a long-term care policy as defined in s. 627.9404(1). A pharmacist who correctly repackages and relabels the medication and the nursing facility which correctly administers such repackaged medication under the provisions of this subsection shall not be held liable in any civil or administrative action arising from the repackaging. In order to be eligible for the repackaging, a nursing facility resident for whom the medication is to be repackaged shall sign an informed consent form provided by the facility which includes an explanation of the repackaging process and which notifies the resident of the immunities from liability provided herein. A pharmacist who repackages and relabels prescription medications, as authorized under this subsection, may charge a reasonable fee for costs resulting from the implementation of this provision.

(5) Provide for the access of the facility residents to dental and other health-related services, recreational services, rehabilitative services, and social work services appropriate to their needs and conditions and not directly furnished by the licensee. When a geriatric outpatient nurse clinic is conducted in accordance with rules adopted by the agency, outpatients attending such clinic shall not be counted as part of the general resident population of the nursing home facility, nor shall the nursing staff of the geriatric outpatient clinic be counted as part of the nursing staff of the facility, until the outpatient clinic load exceeds 15 a day.

Facilities that have been awarded a Gold Seal under the program established in s. 400.235 may develop a plan to provide certified nursing

assistant training as prescribed by federal regulations and state rules and may apply to the agency for approval of its program.

Section 58. Paragraph (a) of subsection (3) and subsection (4) of section 400.235, Florida Statutes, as amended by section 12 of chapter 2000-305 and section 7 of chapter 2000-350, Laws of Florida, and subsection (9) of section 400.235, Florida Statutes, as created by section 7 of chapter 2000-350, Laws of Florida, are reenacted to read:

400.235 Nursing home quality and licensure status; Gold Seal Program.—

(3)(a) The Gold Seal Program shall be developed and implemented by the Governor's Panel on Excellence in Long-Term Care which shall operate under the authority of the Executive Office of the Governor. The panel shall be composed of three persons appointed by the Governor, to include a consumer advocate for senior citizens and two persons with expertise in the fields of quality management, service delivery excellence, or public sector accountability; three persons appointed by the Secretary of Elderly Affairs, to include an active member of a nursing facility family and resident care council and a member of the University Consortium on Aging; the State Long-Term Care Ombudsman; one person appointed by the Florida Life Care Residents Association; one person appointed by the Secretary of Health; two persons appointed by the Secretary of Health Care Administration; one person appointed by the Florida Association of Homes for the Aging; and one person appointed by the Florida Health Care Association. Vacancies on the panel shall be filled in the same manner as the original appointments.

(4) The panel shall consider the quality of care provided to residents when evaluating a facility for the Gold Seal Program. The panel shall determine the procedure or procedures for measuring the quality of care.

(9) The agency may adopt rules as necessary to administer this section.

Section 59. Subsection (1) of section 400.962, Florida Statutes, as amended by section 8 of chapter 2000-350, Laws of Florida, is reenacted to read:

400.962 License required; license application.—

(1) It is unlawful to operate an intermediate care facility for the developmentally disabled without a license.

Section 60. Section 10 of chapter 2000-350, Laws of Florida, is reenacted to read:

Section 10. The Board of Pharmacy, in cooperation with the Agency for Health Care Administration, shall undertake a study of the feasibility, efficiency, cost-effectiveness, and safety of using automated medication dispensing machines in nursing facilities. The board and the agency may authorize the establishment of demonstration projects in up to five nursing facilities with a class I institutional pharmacy as part of the study. Demonstration projects may be allowed to continue for up to 12 months. A report summarizing the results of the study shall be submitted by the board and the agency to the Speaker of the House of Representatives and the President of the Senate by January 1, 2001. If the study determines that such dispensing machines would benefit residents of nursing facilities and should be allowed, the report shall identify those specific statutory changes necessary to allow nursing facilities to use automated medication dispensing machines.

Section 61. Paragraph (g) is added to subsection (1) of section 400.562, Florida Statutes, to read:

400.562 Rules establishing standards.—

(1) The Department of Elderly Affairs, in conjunction with the agency, shall adopt rules to implement the provisions of this part. The rules must include reasonable and fair standards. Any conflict between these standards and those that may be set forth in local, county, or municipal ordinances shall be resolved in favor of those having statewide effect. Such standards must relate to:

(g) Components of a comprehensive emergency management plan, developed in consultation with the Department of Health, the Agency for Health Care Administration, and the Department of Community Affairs.

Section 62. *Notwithstanding any other provision of this act to the contrary, sections 400.0237, 400.0238, 400.4297, 400.4298, Florida Statutes, as created by this act, and section 768.735, Florida Statutes, as amended by this act, shall become effective May 15, 2001; shall apply to causes of action accruing on or after May 15, 2001; and shall be applied retroactively to causes of action accruing before May 15, 2001, for which no case has been filed prior to October 5, 2001.*

Section 63. *The Agency for Health Care Administration shall develop by October 31, 2001, a standard chart of accounts to govern the content and manner of presentation of financial information to be submitted by Medicaid long-term care providers in their cost reports. The Auditor General shall approve the standard chart of accounts developed by the Agency for Health Care Administration not later than December 31, 2001. The agency shall amend the Florida Title XIX Long-Term Care Reimbursement Plan to incorporate this standard chart of accounts and shall implement use of this standard chart of accounts effective for cost reports filed for the periods ending on or after December 31, 2002. The standard chart of accounts shall include specific accounts for each component of direct care staff by type of personnel and may not be revised without the written consent of the Auditor General.*

Section 64. *The Agency for Health Care Administration shall amend the Medicaid Title XIX Long-Term Care Reimbursement Plan effective December 31, 2001, to include the following provisions:*

(1) Effective with nursing facility cost reports filed for periods ending on or after December 31, 2002, the cost report shall contain detailed information on the salary, benefits, agency, and overtime costs and corresponding hours for direct care staffing for registered nurses, licensed practical nurses, and certified nursing assistants.

(2) Effective for cost reports filed for periods ending on or after December 31, 2003, the cost reports shall be submitted electronically in a format and manner prescribed by the agency.

Section 65. *The Office of State Long-Term Care Ombudsman shall be responsible for the cost of leasing its own office space, but shall not be colocated with the headquarters office of the Department of Elderly Affairs.*

Section 66. *The sum of $5,602,460 is appropriated from the Health Care Trust Fund to the Agency for Health Care Administration and 79 positions are authorized for the purpose of implementing the provisions of this act during the 2001-2002 fiscal year.*

Section 67. *The sum of $948,782 is appropriated from the General Revenue Fund to the Department of Elderly Affairs for the purpose of paying the salaries and other administrative expenses of the Office of State Long-Term Care Ombudsman to carry out the provisions of this act during the 2001-2002 fiscal year.*

Section 68. *If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.*

Section 69. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to long-term care; amending s. 400.0073, F.S.; clarifying duties of the local ombudsman councils with respect to inspections of nursing homes and long-term care facilities; amending s. 400.021, F.S.; defining the terms "controlling interest" and "voluntary board member" and revising the definition of "resident care plan" for purposes of part II of ch. 400, F.S., relating to the regulation of nursing homes; requiring the Agency for Health Care Administration and the Office of the Attorney General to

study the use of electronic monitoring devices in nursing homes; requiring a report; amending s. 400.023, F.S.; providing for election of survival damages, wrongful death damages, or recovery for negligence; providing for attorney's fees for injunctive relief or administrative remedy; providing that ch. 766, F.S., does not apply to actions under this section; providing burden of proof; providing that a violation of a right is not negligence per se; prescribing the duty of care; prescribing a nurse's duty of care; eliminating presuit provisions; eliminating the requirement for presuit mediation; creating s. 400.0233, F.S; providing for presuit notice; prohibiting the filing of suit for a specified time; requiring a response to the notice; tolling the statute of limitations; limiting discovery of presuit investigation documents; limiting liability of presuit investigation participants; authorizing the obtaining of opinions from a nurse or doctor; authorizing the obtaining of unsworn statements; authorizing discovery of relevant documents; prescribing the time for acceptance of settlement offers; requiring mediation; prescribing the time to file suit; creating s. 400.0234, F.S.; requiring the availability of facility records for presuit investigation; specifying the records to be made available; specifying what constitutes evidence of failure to make records available in good faith; specifying the consequences of such failure; creating s. 400.0235, F.S.; providing that the provisions of s. 768.21(8), F.S., do not apply to actions under part II of ch. 400, F.S.; creating s. 400.0236, F.S.; providing a statute of limitations; providing a statute of limitations when there is fraudulent concealment or intentional misrepresentation of fact; providing for application of the statute of limitation to accrued actions; creating s. 400.0237, F.S.; requiring evidence of the basis for punitive damages; prohibiting discovery relating to financial worth; providing for proof of punitive damages; defining the terms "intentional misconduct" and "gross negligence"; prescribing criteria governing employers' liability for punitive damages; providing for the remedial nature of provisions; creating s. 400.0238, F.S.; prescribing limits on the amount of punitive damages; providing for a criminal investigation with a finding of liability for punitive damages under certain circumstances; providing for the admissibility of findings in subsequent civil and criminal actions; providing for the calculation of attorney's fees; providing for a division of punitive damages; amending s. 768.735, F.S.; providing that the section is inapplicable to actions brought under ch. 400, F.S.; amending s. 415.1111, F.S.; limiting actions against nursing homes and assisted living facilities; amending s. 400.0255, F.S.; providing for applicability of provisions relating to transfer or discharge of nursing home residents; amending s. 400.062, F.S.; increasing the bed license fee for nursing home facilities; amending s. 400.071, F.S.; revising license application requirements; requiring certain disclosures; authorizing the Agency for Health Care Administration to issue an inactive license; requiring quality assurance and risk-management plans; amending s. 400.102, F.S.; providing additional grounds for action by the agency against a licensee; amending s. 400.111, F.S.; prohibiting renewal of a license if an applicant has failed to pay certain fines; requiring licensees to disclose financial or ownership interests in certain entities; authorizing placing fines in escrow; amending s. 400.118, F.S.; revising duties of quality-of-care monitors in nursing facilities; creating s. 400.1183, F.S.; providing for resident grievance procedures; amending s. 400.121, F.S.; specifying additional circumstances under which the agency may deny, revoke, or suspend a facility's license or impose a fine; authorizing placing fines in escrow; requiring that the agency revoke or deny a nursing home license under specified circumstances; providing standards for administrative proceedings; providing for the agency to assess the costs of an investigation and prosecution; specifying facts and conditions upon which administrative actions that are challenged must be reviewed; amending s. 400.126, F.S.; requiring an assessment of residents in nursing homes under receivership; providing for alternative care for qualified residents; amending s. 400.141, F.S.; providing additional administrative and management requirements for licensed nursing home facilities; requiring a facility to submit information on staff-to-resident ratios, staff turnover, and staff stability; requiring that certain residents be examined by a licensed physician; providing requirements for dining and hospitality attendants; requiring additional reports to the agency; requiring minimum amounts of liability insurance coverage; requiring daily charting of specified certified nursing assistant services; creating s. 400.1413, F.S.; authorizing nursing homes to impose certain requirements on volunteers; creating s. 400.147, F.S.; requiring each licensed nursing home facility to establish an internal risk management and quality assurance program; providing requirements of the program; requiring the use of incident reports; defining the term "adverse incident"; requiring that the agency be notified of adverse incidents; requiring reporting of liability claims; specifying duties of the internal risk manager; requiring the reporting of sexual abuse; limiting the liability of a risk manager; requiring that the agency report certain conduct to the appropriate regulatory board; requiring that the agency annually report to the Legislature on the internal risk management of nursing homes; creating s. 400.148, F.S.; providing for a pilot project to coordinate resident quality of care; providing requirements; providing for penalties; requiring annual reports; amending s. 400.19, F.S.; requiring the agency to conduct surveys of certain facilities cited for deficiencies; providing for a survey fine; providing for inspections; amending s. 400.191, F.S.; requiring the agency to publish a Nursing Home Guide Watch List; specifying contents of the watch list; specifying distribution of the watch list; requiring that nursing homes post certain additional information; amending s. 400.211, F.S.; revising employment requirements for nursing assistants; requiring inservice training; amending s. 400.23, F.S.; revising minimum staffing requirements for nursing homes; requiring the documentation and posting of compliance with such standards; requiring correction of deficiencies prior to change in conditional status; providing definitions of deficiencies; adjusting the fines imposed for certain deficiencies; amending s. 400.235, F.S.; revising requirements for the Gold Seal Program; creating s. 400.275, F.S.; providing for training of nursing home survey teams; amending s. 400.407, F.S.; revising certain licensing requirements; providing for the biennial license fee to be based on number of beds; amending s. 400.414, F.S.; specifying additional circumstances under which the Agency for Health Care Administration may deny, revoke, or suspend a license; providing for issuance of a temporary license; amending s. 400.419, F.S.; increasing the fines imposed for certain violations; creating s. 400.423, F.S.; requiring certain assisted living facilities to establish an internal risk management and quality assurance program; providing requirements of the program; requiring the use of incident reports; defining the term "adverse incident"; requiring that the agency be notified of adverse incidents and of liability claims; requiring reporting of liability claims; specifying duties of the internal risk manager; requiring that the agency report certain conduct to the appropriate regulatory board; requiring that the agency annually report to the Legislature on the internal risk management of assisted living facilities; amending s. 400.426, F.S.; requiring that certain residents be examined by a licensed physician; amending s. 400.428, F.S.; revising requirement for notice of a resident's relocation or termination from a facility; providing a penalty; amending s. 400.429, F.S.; providing for election of survival damages, wrongful death damages, or recovery for negligence; providing for attorney's fees for injunctive relief or administrative remedy; providing that ch. 766, F.S., does not apply to actions under this section; prescribing the burden of proof; providing that a violation of a right is not negligence per se; prescribing the duty of care; prescribing a nurse's duty of care; eliminating presuit provisions; eliminating the requirement for presuit mediation; requiring copies of complaints filed in court to be provided to the agency; creating s. 400.4293, F.S; providing for presuit notice; prohibiting the filing of suit for a specified time; requiring a response to the notice; tolling the statute of limitations; limiting the discovery of presuit investigation documents; limiting liability of presuit investigation participants; authorizing the obtaining of opinions from a nurse or doctor; authorizing the obtaining of unsworn statements; authorizing discovery of relevant documents; prescribing a time for acceptance of settlement offers; requiring mediation; prescribing the time to file suit; creating s. 400.4294, F.S.; requiring the availability of facility records for presuit investigation; specifying the records to be made available; specifying what constitutes evidence of failure to make records available in good faith; specifying the consequences of such failure; creating s. 400.4295, F.S.; providing that the provisions of s. 768.21(8), F.S., do not apply to actions under part III of ch. 400, F.S.; creating s. 400.4296, F.S.; providing a statute of limitations; providing a statute of limitations when there is fraudulent concealment or intentional misrepresentation of fact; providing for application of the statute of limitation to accrued actions; creating s. 400.4297, F.S.; requiring evidence of the basis for punitive damages; prohibiting discovery relating to financial worth; providing for proof of

punitive damages; defining the terms "intentional misconduct" and "gross negligence"; prescribing criteria governing employers' liability for punitive damages; providing for the remedial nature of provisions; creating s. 400.4298, F.S.; providing limits on the amount of punitive damages; providing for a criminal investigation with a finding of liability for punitive damages under certain circumstances; providing for the admissibility of findings in subsequent civil and criminal actions; providing for the calculation of attorney's fees; providing for a division of punitive damages; amending s. 400.434, F.S.; authorizing the Agency for Health Care Administration to use information obtained by certain councils; amending s. 400.441, F.S.; clarifying facility inspection requirements; creating s. 400.449, F.S.; prohibiting the alteration or falsification of medical or other records of an assisted living facility; providing penalties; amending s. 409.908, F.S.; prohibiting nursing home reimbursement rate increases associated with changes in ownership; modifying requirements for nursing home cost reporting; requiring a report; amending s. 430.709, F.S.; providing requirements for contracts for independent evaluation of long-term care community diversion projects; transferring responsibility from the Department of Elderly Affairs to the agency; requiring reports to the agency and Legislature; amending s. 464.203, F.S.; revising certification requirements for nursing assistants; authorizing employment of certain nursing assistants pending certification; requiring continuing education; amending s. 397.405, F.S., relating to service providers; conforming provisions to changes made by the act; prohibiting the issuance of a certificate of need for additional community nursing home beds; providing intent for such prohibition; providing an exemption; reenacting s. 400.0255(3) and (8), F.S., relating to discharge or transfer of residents; reenacting s. 400.23(5), F.S., relating to rules for standards of care for persons under a specified age residing in nursing home facilities; reenacting s. 400.191(2) and (6), F.S., relating to requirements for providing information to consumers; reenacting s. 400.0225, F.S., relating to consumer satisfaction surveys for nursing homes; reenacting s. 400.141(4) and (5), F.S., relating to the repackaging of residents' medication and access to other health-related services; reenacting s. 400.235(3)(a), (4), and (9), F.S., relating to designation under the nursing home Gold Seal Program; reenacting s. 400.962(1), F.S., relating to the requirement for licensure under pt. IX of ch. 400, F.S.; reenacting s. 10 of ch. 2000-350, Laws of Florida, relating to requirements for a study of the use of automated medication-dispensing machines in nursing facilities and for demonstration projects and a report; amending s. 400.562, F.S.; revising requirements for standards to be included in rules implementing part V of ch. 400, F.S.; providing for applicability of specified provisions of the act; requiring the Auditor General to develop a standard chart of accounts for Medicaid long-term care provider cost reporting; requiring implementation by the agency by a specified date; requiring the agency to amend the Medicaid Title XIX Long-Term Care Reimbursement Plan to include specified provisions; providing for office space for the Office of State Long-Term Care Ombudsman; providing appropriations; providing for severability; providing effective dates.

Rep. Green moved the adoption of the amendment.

Motion

Rep. Byrd moved the previous question on the amendment, which was agreed to.

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

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

On motion by Rep. Byrd, the House moved to the consideration of CS/HB 175 on Bills and Joint Resolutions on Third Reading.

Continuation of Bills and Joint Resolutions on Third Reading

CS/HB 175—A bill to be entitled An act relating to aggressive careless driving; creating s. 316.1923, F.S.; defining the term "aggressive careless driving"; amending s. 316.650, F.S.; requiring that the Department of Highway Safety and Motor Vehicles revise the uniform traffic citation upon future printings, to include a special check-off box for law enforcement officers to use to indicate aggressive careless driving; requiring the department to make a report to the Legislature on the number of aggressive careless driving incidents; creating s. 316.1923, F.S.; providing an effective date.

—was read the third time by title.

Representative(s) Machek offered the following:

(Amendment Bar Code: 111461)

Amendment 4 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsections (3) and (4) of section 316.192, Florida Statutes, are renumbered as subsections (4) and (5), respectively, subsection (2) is amended, and a new subsection (3) is added to said section, to read:

316.192 Reckless driving.—

(2) *Except as provided in subsection (3),* any person convicted of reckless driving shall be punished:

(a) Upon a first conviction, by imprisonment for a period of not more than 90 days or by fine of not less than $25 nor more than $500, or by both such fine and imprisonment.

(b) On a second or subsequent conviction, by imprisonment for not more than 6 months or by a fine of not less than $50 nor more than $1,000, or by both such fine and imprisonment. ~~In addition, if the person's reckless driving causes or results in the death of another, the person may serve 120 community hours as provided in s. 316.027(4).~~

(3) Any person:

(a) Who is in violation of subsection (1);

(b) Who operates a vehicle; and

(c) Who, by reason of such operation, causes:

1. Damage to the property or person of another commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Serious bodily injury to another commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The term "serious bodily injury" means an injury to another person, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Section 2. Section 782.071, Florida Statutes, is amended to read:

782.071 Vehicular homicide.—"Vehicular homicide" is the killing of a human being, or the killing of a viable fetus by any injury to the mother, caused by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another.

(1) Vehicular homicide is:

(a)~~(1)~~ A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)~~(2)~~ A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

1.~~(a)~~ At the time of the accident, the person knew, or should have known, that the accident occurred; and

2.~~(b)~~ The person failed to give information and render aid as required by s. 316.062.

This *paragraph* ~~subsection~~ does not require that the person knew that the accident resulted in injury or death.

(2)~~(3)~~ For purposes of this section, a fetus is viable when it becomes capable of meaningful life outside the womb through standard medical measures.

(3)~~(4)~~ A right of action for civil damages shall exist under s. 768.19, under all circumstances, for all deaths described in this section.

(4) In addition to any other punishment, the court may order the person to serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community service program operated by the trauma center or hospital.

Section 3. Paragraph (h) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(h) LEVEL 8
316.193 (3)(c)3.a.	2nd	DUI manslaughter.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
560.123(8)(b)2.	2nd	Failure to report currency or payment instruments totaling or exceeding $20,000, but less than $100,000 by money transmitter.
560.125(5)(b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding $20,000, but less than $100,000.
655.50(10)(b)2.	2nd	Failure to report financial transactions totaling or exceeding $20,000, but less than $100,000 by financial institutions.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
782.071*(1)(b)* ~~(2)~~	1st	Committing vehicular homicide and failing to render aid or give information.
782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
800.04(4)	2nd	Lewd or lascivious battery.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or $1,000 or more property damage.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)	1st	Home-invasion robbery.
825.102(2)	2nd	Aggravated abuse of an elderly person or disabled adult.
825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at $100,000 or more.
837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
860.16	1st	Aircraft piracy.
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
893.135 (1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
893.135 (1)(h)1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
893.135 (1)(i)1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
893.135 (1)(j)2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.

Florida Statute	Felony Degree	Description
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding $20,000, but less than $100,000.
896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding $20,000 but less than $100,000.

Section 4. Paragraph (b) of subsection (3) of section 960.03, Florida Statutes, is amended to read:

960.03 Definitions; ss. 960.01-960.28.—As used in ss. 960.01-960.28, unless the context otherwise requires, the term:

(3) "Crime" means:

(b) A violation of s. 316.193, s. 316.027(1), s. 327.35(1), s. 782.071*(1)(b)*~~(2)~~, or s. 860.13(1)(a) which results in physical injury or death; however, no other act involving the operation of a motor vehicle, boat, or aircraft which results in injury or death shall constitute a crime for the purpose of this chapter unless the injury or death was intentionally inflicted through the use of such vehicle, boat, or aircraft or unless such vehicle, boat, or aircraft is an implement of a crime to which this act applies.

Section 5. Section 316.1923, Florida Statutes, is created to read:

316.1923 Aggressive careless driving.—"Aggressive careless driving" means committing two or more of the following acts simultaneously or in succession:

(1) Exceeding the posted speed as defined in s. 322.27(3)(d)5.b.

(2) Unsafely or improperly changing lanes as defined in s. 316.085.

(3) Following another vehicle too closely as defined in s. 316.0895(1).

(4) Failing to yield the right-of-way as defined in s. 316.079, s. 316.0815, or s. 316.123.

(5) Improperly passing as defined in s. 316.083, s. 316.084, or s. 316.085.

(6) Violating traffic control and signal devices as defined in ss. 316.074 and 316.075.

Section 6. Paragraph (a) of subsection (1) of section 316.650, Florida Statutes, is amended to read:

316.650 Traffic citations.—

(1)(a) The department shall prepare, and supply to every traffic enforcement agency in this state, an appropriate form traffic citation containing a notice to appear (which shall be issued in prenumbered books with citations in quintuplicate) and meeting the requirements of this chapter or any laws of this state regulating traffic, which form shall be consistent with the state traffic court rules and the procedures established by the department. *Upon all future printings of the traffic citation, the form shall include a special box which is to be checked by the law enforcement officer when the officer believes that the traffic violation or crash was due to aggressive careless driving as defined in s. 316.1923.*

Section 7. *The Department of Highway Safety and Motor Vehicles shall prepare and deliver a report to the Speaker of the House of Representatives and the President of the Senate no later than December 1, 2002, setting forth the number of incidents of aggressive careless driving in this state.*

Section 8. This act shall take effect October 1, 2001.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to reckless driving; amending s. 316.192, F.S.; providing penalties for reckless driving resulting in damage to property or person or serious bodily injury; providing a definition; amending s. 782.071, F.S., relating to vehicular homicide; providing penalties; amending ss. 921.0022 and 960.03, F.S.; conforming cross references; creating s. 316.1923, F.S.; defining the term "aggressive careless driving"; amending s. 316.650, F.S.; requiring that the Department of Highway Safety and Motor Vehicles revise the uniform traffic citation upon future printings, to include a special check-off box for law enforcement officers to use to indicate aggressive careless driving; requiring the department to make a report to the Legislature on the number of aggressive careless driving incidents; providing an effective date.

Rep. Machek moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/HB 175. The vote was:

Session Vote Sequence: 280

Yeas—116

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Byrd, the House moved to the consideration of HB 1111.

HB 1111—A bill to be entitled An act relating to the Aerospace Infrastructure Reinvestment Act; creating said act; providing legislative findings; amending s. 212.20, F.S.; providing that the amounts due under the chapter on sales, use, and other transactions collected by dealers conducting business at a fixed location at the Kennedy Space Center or Cape Canaveral Air Station on admissions thereto and on sales of tangible personal property at such business shall be separately returned and distributed by the Department of Revenue to the Florida

Commercial Space Financing Corporation and used for funding aerospace infrastructure; providing an exemption for the reallocation of certain proceeds to the Discretionary Sales Surtax Clearing Trust Fund; providing a definition; providing for rules; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 281

Yeas—120

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

On motion by Rep. Frankel, the rules were waived and the House moved to the order of—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for CS for SB 144; CS for CS for SB 374; CS for SB 1932; and SB 2240, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committees on Judiciary, Criminal Justice and Senator Geller—

CS for CS for SB 144—A bill to be entitled An act relating to computer crimes; amending s. 827.071, F.S.; revising the definition of "sexual conduct"; amending s. 847.001, F.S.; revising and adding definitions; amending s. 847.0135, F.S.; revising the "Computer Pornography and Child Exploitation Act of 1986" to clarify certain penalties; creating s. 847.0137, F.S.; prohibiting transmissions of child pornography and any image, information, or data harmful to minors; providing penalties; creating s. 847.0138, F.S.; prohibiting transmission of material harmful to minors by electronic device or equipment; providing definitions; providing penalties; creating s. 847.0139, F.S.; providing immunity from civil liability for reporting child pornography, transmission of child pornography, or unlawful transmission of any image, information, or data harmful to minors; amending s. 905.34, F.S.; providing jurisdiction of the statewide grand jury over offenses relating to computer pornography, child exploitation, or violations of s. 847.0135, F.S.; providing severability; amending s. 815.03, F.S.; providing definitions; repealing s. 815.05, F.S., relating to definitions; amending s. 815.06, F.S.; creating offenses against computer equipment or supplies, computers, computer system, and computer networks; providing penalties; amending s. 16.56, F.S., adding violations of computer and computer-related crimes under chapter 815, F.S., expanding prosecutorial jurisdiction of the Office of Statewide Prosecution; amending s. 905.34, F.S.; expanding subject matter jurisdiction of the statewide grand jury to include violations of computer and computer-related crimes under chapter 815, F.S.; providing effective dates.

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

By the Committees on Judiciary, Children and Families and Senators Peaden and Holzendorf—

CS for CS for SB 374—A bill to be entitled An act relating to elderly persons and disabled adults; amending s. 825.101, F.S.; defining the term "position of trust and confidence"; amending s. 772.11, F.S.; prescribing civil remedies for theft and other offenses in which the victim is an elderly person or disabled adult; providing that a violation of patient rights is not a cause of action under the act; providing for continuation of a cause of action upon the death of the elderly person or disabled adult; authorizing the court to advance a trial on the docket which involves a victim who is an elderly person or disabled adult; creating s. 744.1083, F.S.; providing guidelines for the registration of public guardians; authorizing rulemaking; authorizing certain financial institutions to register; amending s. 744.534, F.S.; revising provisions relating to disposition of unclaimed funds; amending s. 744.703, F.S.; authorizing the establishment of public guardian offices; providing for the staffing of offices; creating s. 744.7082, F.S.; defining the term "direct-support organization"; providing for the purposes of a direct-support organization; amending s. 744.387, F.S.; raising the amount of a claim that may be settled by a natural guardian of a minor without the necessity of appointment of a legal guardian; amending s. 744.301, F.S.; raising the amount of a claim that may be settled by a natural guardian of a minor without the necessity of appointment of a guardian ad litem; providing an effective date.

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

By the Committee on Criminal Justice and Senator Laurent—

CS for SB 1932—A bill to be entitled An act relating to controlled substances; authorizing the creation of a pilot program in Orange County to intercept illegal drug shipments through package delivery services; amending ss. 823.10, 823.01, F.S.; providing that a person who willfully keeps or maintains or aids or abets another in keeping or maintaining certain types of places where controlled substances are unlawfully used, kept, sold, or delivered commits the offense of keeping or maintaining a public nuisance; providing a penalty; amending s. 877.111, F.S., relating to inhalation, ingestion, sale, purchase, or transfer of certain harmful chemical substances; providing exceptions to applications of offenses relating to unlawful distribution, sale, purchase, transfer, or possession of nitrous oxide; amending s. 893.03, F.S., relating to controlled substance standards and schedules; adding 4-methoxymethamphetamine, 1, 4-Butanediol, Gamma-butyrolactone (GBL), Gamma-hydroxybutyric acid (GBH), methaqualone, and mecloqualone to Schedule I; deleting 1, 4-Butanediol and Gamma-hydroxybutyric acid from Schedule II; adding drug products containing Gamma-hydroxybutyric acid which are approved under the Federal Food, Drug, and Cosmetic Act to Schedule III; amending s. 893.033, F.S., relating to listed chemicals; adding chloroephedrine and chloropseudoephedrine to the list of precursor chemicals; amending s. 893.135, F.S., relating to drug trafficking; creating offenses for trafficking in Gamma-butyrolactone (GBL) and lysergic acid diethylamide (LSD); providing penalties; amending scheduling

references for trafficking in Gamma-hydroxybutyric acid (GHB) and 1, 4-Butanediol; providing effective dates.

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

By Senator Garcia—

SB 2240—A bill to be entitled An act relating to warranty associations; amending s. 634.011, F.S.; defining the term "additive product"; redefining the terms "motor vehicle service agreement" and "salesperson"; amending s. 634.044, F.S.; including part inventories among the allowable assets of a service agreement company; amending s. 634.137, F.S.; providing for submission of financial reports to the Department of Insurance in a computer-readable form; amending s. 634.171, F.S.; providing that a motor vehicle service agreement company is not required to be licensed as a salesperson to solicit, sell, issue, or otherwise transact the motor vehicle service agreements issued by the company; repealing s. 634.281, F.S., which provides that service agreement companies and their salespersons shall be subject to pt. IX of ch. 626, F.S., relating to service agreement companies and their salespersons; creating s. 634.2815, F.S.; prohibiting engaging in any trade practice determined to be an unfair method of competition or an unfair or deceptive act or practice involving the business of motor vehicle service agreements; creating s. 634.282, F.S.; defining unfair methods of competition and unfair or deceptive acts or practices; creating s. 634.2825, F.S.; requiring vendors and lenders to separately state and identify the amount charged and to be paid for a motor vehicle service agreement; providing applicability; creating s. 634.283, F.S.; providing power of the Department of Insurance to examine and investigate the affairs of persons involved in the business of motor vehicle service agreements in the state; creating s. 634.284, F.S.; authorizing the department to conduct hearings with respect to specified prohibited practices; providing a fine for failure to comply with a subpoena or an order directing discovery; creating s. 634.285, F.S.; providing for the issuance of cease and desist orders by the department; providing specified penalties; creating s. 634.286, F.S.; providing for appeals of orders of the department; creating s. 634.287, F.S.; providing penalties for violation of a cease and desist order of the department; creating s. 634.288, F.S.; providing for civil liability; amending s. 634.3077, F.S.; eliminating specified assets to be deducted in computing the net asset requirement of a home warranty association; creating s. 634.3078, F.S.; specifying allowable assets and liabilities with respect to the determination of the financial condition of a service warranty association; amending s. 634.312, F.S.; amending provisions relating to the filing and approval of forms; amending s. 634.313, F.S.; providing for the submission of annual statements and financial reports to the Department of Insurance in a computer-readable form; amending s. 634.318, F.S.; providing that a home warranty association is not required to be licensed as a salesperson to solicit, sell, issue, or otherwise transact the home warranty agreements issued by the association; amending s. 634.331, F.S.; revising terminology with respect to coverage of property for sale; amending s. 634.415, F.S.; providing for the submission of statements and reports to the Department of Insurance in a computer-readable form; amending s. 634.419, F.S.; providing that a service warranty association is not required to be licensed as a sales representative to solicit, sell, or issue service warranty agreements issued by the association; amending s. 634.436, F.S.; including advertising, offering, or providing a free service warranty as an inducement to specified purchases or sales among acts or practices that constitute unfair methods of competition and unfair or deceptive acts or practices; amending ss. 624.124, 628.4615, F.S.; correcting cross-references; creating s. 634.289, F.S.; providing rulemaking authority; amending s. 634.302, F.S.; providing rulemaking authority; amending s. 634.402, F.S.; providing rulemaking authority; providing for effective dates.

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

Continuation of Bills and Joint Resolutions on Third Reading

CS/HB 203 was taken up. On motion by Rep. Ryan, the rules were waived and—

CS for CS for SB 144—A bill to be entitled An act relating to computer crimes; amending s. 827.071, F.S.; revising the definition of "sexual conduct"; amending s. 847.001, F.S.; revising and adding definitions; amending s. 847.0135, F.S.; revising the "Computer Pornography and Child Exploitation Act of 1986" to clarify certain penalties; creating s. 847.0137, F.S.; prohibiting transmissions of child pornography and any image, information, or data harmful to minors; providing penalties; creating s. 847.0138, F.S.; prohibiting transmission of material harmful to minors by electronic device or equipment; providing definitions; providing penalties; creating s. 847.0139, F.S.; providing immunity from civil liability for reporting child pornography, transmission of child pornography, or unlawful transmission of any image, information, or data harmful to minors; amending s. 905.34, F.S.; providing jurisdiction of the statewide grand jury over offenses relating to computer pornography, child exploitation, or violations of s. 847.0135, F.S.; providing severability; amending s. 815.03, F.S.; providing definitions; repealing s. 815.05, F.S., relating to definitions; amending s. 815.06, F.S.; creating offenses against computer equipment or supplies, computers, computer system, and computer networks; providing penalties; amending s. 16.56, F.S., adding violations of computer and computer-related crimes under chapter 815, F.S., expanding prosecutorial jurisdiction of the Office of Statewide Prosecution; amending s. 905.34, F.S.; expanding subject matter jurisdiction of the statewide grand jury to include violations of computer and computer-related crimes under chapter 815, F.S.; providing effective dates.

—was substituted for CS/HB 203 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Ryan, the rules were waived and CS for CS for SB 144 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 282

Yeas—116

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

Stansel	Wallace	Weissman	Wilson
Trovillion	Waters	Wiles	Wishner

Nays—None

Votes after roll call:
Yeas—Bennett, Goodlette, Haridopolos

So the bill passed and was immediately certified to the Senate.

SB 1200—A bill to be entitled An act relating to public records and meetings; providing an exemption from the public records law for certain records relating to internal risk-management programs in nursing homes and assisted living facilities; providing for release of such information under certain circumstances; providing an exemption from the public meetings law for meetings of internal risk-management and quality-assurance committees in nursing homes and assisted living facilities; providing for future legislative review and repeal; providing a statement of public necessity; providing a contingent effective date.

—was read the third time by title.

Representative(s) Green offered the following:

(Amendment Bar Code: 460713)

Amendment 1 (with title amendment)—On page 2, line 13, after the period,

insert: *Residents who are the subject of or identified in incident reports or other related records shall be entitled to receive a copy of those documents upon request.*

And the title is amended as follows:

On page 1, line 12, after the semicolon,

insert: providing that certain residents shall be entitled to receive a copy of described documents;

Rep. Green moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Green offered the following:

(Amendment Bar Code: 852967)

Amendment 2—On page 2, line 25,
remove from the bill: *October 1*

and insert in lieu thereof: *October 2*

Rep. Green moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Green offered the following:

(Amendment Bar Code: 363089)

Amendment 3—On page 3, line 16,
remove from the bill: all of said line

and insert in lieu thereof: that Senate Bill 1202 or similar legislation creating internal

Rep. Green moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of SB 1200. The vote was:

Session Vote Sequence: 283

Yeas—116

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

Nays—2

Carassas	Gottlieb

So the bill passed, as amended, and was immediately certified to the Senate.

CS for SB 888—A bill to be entitled An act relating to violations of probation or community control; amending s. 948.06, F.S.; providing for tolling the period of probation or community control for an offender following the filing of an affidavit alleging a violation of probation or community control and issuance of a warrant; providing for a previously imposed period of probation or community control to be reinstated following dismissal of the affidavit; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 284

Yeas—116

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

Stansel	Wallace	Weissman	Wilson
Trovillion	Waters	Wiles	Wishner

Nays—None

Votes after roll call:
Yeas—Bean, Goodlette

So the bill passed and was immediately certified to the Senate.

CS for CS for SB 1214—A bill to be entitled An act relating to foster care; amending s. 20.19, F.S.; modifying the authority for lead agencies to provide services; amending s. 39.521, F.S., relating to disposition hearings; providing that certain children must be assessed for placement and placed in licensed residential group care; requiring results of an assessment to be reviewed by the court; requiring certain residential group care facilities to establish permanency teams; requiring that the Department of Children and Family Services report to the Legislature each year on the number of children placed in residential group care and the number of children for whom placement was unavailable; amending s. 409.1671, F.S.; redefining the term "related services"; providing for a plan to be used as an alternative to procuring foster care services through an eligible lead community-based provider; creating s. 409.1676, F.S.; providing for comprehensive residential services to children who have extraordinary needs; defining terms; providing for the Department of Children and Family Services to contract with specified entities for such services; specifying duties of the contracting entity; providing legal authority of the contracting entity to authorize specified activities for children served; prescribing departmental duties; creating s. 409.1677, F.S.; providing for model comprehensive residential services programs in specified counties; defining terms; providing for the programs to be established through contracts between the department and specified entities; prescribing the content of each model program; establishing responsibilities of the contracting private entity; providing legal authority of the contracting private entity to authorize certain activities for children served; prescribing departmental duties; creating s. 409.1679, F.S.; prescribing additional requirements for the programs established under ss. 409.1676, 409.1677, F.S., including requirements relating to reimbursement methodology and program evaluation; requiring the department to provide progress reports to the Legislature; amending s. 409.175, F.S.; allowing a family foster home license to be valid for an extended period in specified circumstances; amending s. 784.081, F.S., relating to upgrading the seriousness of the offense if a person commits an assault or a battery against specified officials or employees; including on the list of such officials and employees an employee of a lead community-based provider and its direct-service contract providers; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 285

Yeas—117

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

Nays—None

Votes after roll call:
Yeas—Frankel, Sobel

So the bill passed, as amended, and was immediately certified to the Senate.

HB 1265—A bill to be entitled An act relating to the Florida Mobile Home Relocation Trust Fund; creating s. 723.06115, F.S.; creating the Florida Mobile Home Relocation Trust Fund within the Department of Business and Professional Regulation; providing purposes; providing funding; providing for legislative review and termination or re-creation of the trust fund; creating s. 723.06116, F.S.; requiring that a mobile home park owner make specified payments to the trust fund upon a change in use of the mobile home park which requires a mobile home owner to move; providing exceptions; providing an appropriation; providing a contingent effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 286

Yeas—119

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

Nays—None

So the bill passed, as amended, by the required constitutional three-fifths vote of the membership and was immediately certified to the Senate.

On motion by Rep. Byrd, the House moved to the consideration of CS/HB 475 on Bills and Joint Resolutions on Third Reading.

CS/HB 475—A bill to be entitled An act relating to public health; amending ss. 39.201, 63.0423, 383.50, and 827.035, F.S.; expanding the type of personnel and facilities that may accept abandoned newborns; providing implied consent for treatment and transport and certain immunity from liability; amending s. 154.02, F.S.; specifying purposes for which reserve amounts must be maintained in the County Health Department Trust Fund; amending s. 232.465, F.S.; expanding the type of personnel that may supervise nonmedical school district personnel; providing technical corrections; amending s. 381.0056, F.S.; providing requirements for school health programs funded by health care districts or certain health care entities; amending s. 381.0059, F.S.; revising background screening requirements for school health service personnel; amending s. 381.026, F.S., relating to the Florida Patient's Bill of Rights and Responsibilities; replacing references to the term "physical handicap" with the term "handicap"; amending ss. 382.003, 382.004, 382.013, 382.016, and 382.0255, F.S.; modifying provisions relating to vital records; amending s. 383.14, F.S.; requiring postnatal tests and screenings for infant metabolic disorders to be performed by the State Public Health Laboratory; amending s. 383.402, F.S.; modifying the annual report date for child abuse death reviews; creating s. 391.037, F.S.; providing that the furnishing of medical services by state employees under specified conditions does not constitute a conflict of interest; amending s. 401.113, F.S.; providing for use of funds in the Emergency Medical Services Trust Fund for injury prevention programs; amending s. 401.27, F.S.; authorizing the Department of Health to define by rule the equivalent of cardiopulmonary resuscitation courses for emergency medical technicians and paramedics; exempting emergency medical services examination questions and answers from discovery; providing conditions for introduction in administrative proceedings; requiring the department to establish rules; repealing s. 404.056(2), F.S., relating to the Florida Coordinating Council on Radon Protection; amending s. 404.056, F.S.; deleting an obsolete environmental radiation soil-testing requirement; clarifying rulemaking authority; amending s. 499.012, F.S.; modifying provisions relating to a retail pharmacy wholesaler's permit to authorize transfer of certain prescription drugs between the permittee and a Modified Class II institutional pharmacy; amending s. 509.049, F.S.; revising provisions related to food service employee training programs; providing for audits and revocation of training program approval; providing rulemaking authority; amending s. 742.10, F.S.; requiring a voluntary acknowledgment of paternity for a child born out of wedlock to be notarized; amending s. 743.0645, F.S., relating to consent to medical care or treatment of a minor; providing that a power of attorney to provide such consent includes the power to consent to surgical and general anesthesia services; repealing s. 71(1) of ch. 98-171, Laws of Florida; abrogating the repeal of provisions of law which require background screening of certain applicants for licensure, certification, or registration; providing effective dates.

—was read the third time by title.

Representative(s) Lerner offered the following:

(Amendment Bar Code: 065275)

Amendment 1 (with title amendment)—On page 34, between lines 21 and 22, of the bill

insert:

Section 25. Paragraph (e) of subsection (5) of section 212.055, Florida Statutes, is amended to read:

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

(5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in s. 125.011(1) may levy the surtax authorized in this subsection pursuant to an ordinance either approved by extraordinary vote of the county commission or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. In a county as defined in s. 125.011(1), for the purposes of this subsection, "county public general hospital" means a general hospital as defined in s. 395.002 which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.

(e) *The Health Policy Authority, created by the county commission, shall adopt and implement a health care plan for indigent health care services.* ~~A governing board, agency, or authority shall be chartered by the county commission upon this act becoming law. The governing board, agency, or authority shall adopt and implement a health care plan for indigent health care services. The governing board, agency, or authority shall consist of no more than seven and no fewer than five members appointed by the county commission. The members of the governing board, agency, or authority shall be at least 18 years of age and residents of the county. No member may be employed by or affiliated with a health care provider or the public health trust, agency, or authority responsible for the county public general hospital. The following community organizations shall each appoint a representative to a nominating committee: the South Florida Hospital and Healthcare Association, the Miami-Dade County Public Health Trust, the Dade County Medical Association, the Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade County. This committee shall nominate between 10 and 14 county citizens for the governing board, agency, or authority. The slate shall be presented to the county commission and the county commission shall confirm the top five to seven nominees, depending on the size of the governing board. Until such time as the governing board, agency, or authority is created, the funds provided for in subparagraph (d)2. shall be placed in a restricted account set aside from other county funds and not disbursed by the county for any other purpose.~~

1. The plan shall divide the county into a minimum of four and maximum of six service areas, with no more than one participant hospital per service area. The county public general hospital shall be designated as the provider for one of the service areas. Services shall be provided through participants' primary acute care facilities.

2. The plan and subsequent amendments to it shall fund a defined range of health care services for both indigent persons and the medically poor, including ~~primary care, preventive care,~~ hospital emergency room care~~,~~ and hospital care necessary to stabilize the patient. For the purposes of this section, "stabilization" means stabilization as defined in s. 397.311(30). ~~Where consistent with these objectives, the plan may include services rendered by physicians, clinics, community hospitals, and alternative delivery sites, as well as at least one regional referral hospital per service area.~~ The plan shall provide that agreements negotiated between the governing board, agency, or authority and providers shall recognize hospitals that render a disproportionate share of indigent care, provide other incentives to promote the delivery of charity care to draw down federal funds where appropriate, and require cost containment, including, but not limited to, case management. From the funds specified in subparagraphs (d)1. and 2. for indigent health care services, service providers shall receive reimbursement at a Medicaid rate. ~~to be determined by the governing board, agency, or authority created pursuant to this paragraph for the initial emergency room visit, and a per-member per-month fee or capitation for those members enrolled in their service area, as compensation for the services rendered following the initial emergency visit. Except for provisions of emergency services, upon determination of eligibility, enrollment shall be deemed to have occurred at the time services were rendered. The provisions for specific reimbursement of emergency services shall be repealed on July 1, 2001, unless otherwise reenacted by the Legislature. The capitation amount or rate shall be determined prior to program~~

~~implementation by an independent actuarial consultant.~~ In no event shall *the* ~~such~~ reimbursement rates exceed the Medicaid rate. The plan must also provide that any hospitals owned and operated by government entities on or after the effective date of this act must, as a condition of receiving funds under this subsection, afford public access equal to that provided under s. 286.011 as to any meeting of the governing board, agency, or authority the subject of which is budgeting resources for the retention of charity care, as that term is defined in the rules of the Agency for Health Care Administration. ~~The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service and delivery funding.~~

3. The plan's benefits shall be made available to all county residents currently eligible to receive health care services as indigents or medically poor as defined in paragraph (4)(d).

~~4. Eligible residents who participate in the health care plan shall receive coverage for a period of 12 months or the period extending from the time of enrollment to the end of the current fiscal year, per enrollment period, whichever is less.~~

~~4.~~5. At the end of each fiscal year, the *Health Policy* ~~governing board, agency, or~~ Authority shall prepare an audit that reviews the budget of the plan, delivery of services, and quality of services, and makes recommendations to increase the plan's efficiency. The audit shall take into account participant hospital satisfaction with the plan and assess the amount of poststabilization patient transfers requested, and accepted or denied, by the county public general hospital.

Section 26. Section 11 of chapter 2000-312, Laws of Florida, is amended to read:

Section 11. The provisions of this act shall be reviewed by the Legislature prior to October 1, *2006* ~~2005~~, and shall be repealed on that date unless otherwise reenacted by the Legislature.

And the title is amended as follows:

On page 3, line 8,

after the semicolon, insert: amending s. 212.055, F.S.; revising provisions relating to the county public hospital surtax; revising procedures and requirements for adoption and implementation of the health care plan for indigent health care services; amending s. 11 of ch. 2000-312, Laws of Florida; postponing future review and repeal of said provisions;

Rep. Lerner moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/HB 475. The vote was:

Session Vote Sequence: 287

Yeas—116

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

Nays—1

Frankel

Votes after roll call:
Yeas—Clarke, Gibson, Green

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 477—A bill to be entitled An act relating to public records; amending s. 383.51, F.S.; providing an exemption from public records requirements for information that identifies parents who leave newborn infants at emergency medical services stations; providing an exception; providing an exemption from public records requirements for information contained in the Paternity Registry; providing for future legislative review and repeal; providing findings of public necessity; providing contingent effective dates.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 288

Yeas—119

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

Nays—None

Votes after roll call:
Yeas—Joyner
Yeas to Nays—Frankel

So the bill passed, as amended, and was immediately certified to the Senate.

HB 1937 was taken up. On motion by Rep. Byrd, the rules were waived and—

CS for SB 1852—A bill to be entitled An act relating to state revenues collected by clerks of the court; creating s. 213.13, F.S.; providing for electronic remittance to the Department of Revenue; providing for remittance by the Department of Revenue to various trust funds and agencies; providing for remittance of all moneys collected by the clerks of the court for the state to the Department of Revenue; amending ss. 27.52, 28.101, 28.2401, 28.241, 34.041, 44.108, 316.192, 318.18, 318.21, 327.73, 372.7015, 372.72, 382.023, 741.01, 775.0835, 938.01, 938.03, 938.04, 938.06, 938.07, 938.25, 938.27, 960.17, 318.14, 327.35, 382.022, 569.11, 938.23, F.S.; providing for remittance of funds to the Department of Revenue and deposit in the designated trust fund; repealing outdated language; providing an effective date.

—was substituted for HB 1937 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Byrd, the rules were waived and CS for SB 1852 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 289

Yeas—118

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

Nays—None

Votes after roll call:
Yeas—Goodlette

So the bill passed and was immediately certified to the Senate.

HB 1939 was taken up. On motion by Rep. Byrd, the rules were waived and—

CS for SB 1850—A bill to be entitled An act relating to trust funds; creating the Department of Revenue Clerks of the Court Trust Fund; providing for sources of funds and purposes; providing for future review and termination or re-creation of the trust fund; providing a contingent effective date.

—was substituted for HB 1939 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

REPRESENTATIVE BALL IN THE CHAIR

On motion by Rep. Byrd, the rules were waived and CS for SB 1850 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 290

Yeas—119

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

Nays—None

So the bill passed by the required constitutional three-fifths vote of the membership and was immediately certified to the Senate.

THE SPEAKER IN THE CHAIR

Motion

Rep. Goodlette moved to request the Senate to return **CS/HB 41**, which was agreed to.

Reconsideration of Motion

On motion by Rep. Goodlette, the House reconsidered the vote by which the House agreed to request the Senate to return CS/HB 41.

Recalled from Senate

On motion by Rep. Goodlette, the Senate was requested to return **CS/HB 41**.

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate requests the return of CS for SB 2060.

Faye W. Blanton, Secretary

CS for SB 2060—A bill to be entitled An act relating to the Department of Insurance; amending ss. 624.3161, 626.171, F.S.; directing the department to adopt rules relating to market conduct examinations and license applications; amending s. 626.9541, F.S.;

revising provisions relating to unfair competition and deceptive practices; creating 626.9552, F.S.; providing standards for single interest insurance; amending s. 627.062, F.S.; providing for filing forms for rate standards; amending s. 627.0625, F.S.; authorizing the department to adopt rules relating to third-party claimants; amending s. 627.0651, F.S.; prohibiting motor vehicle insurers from imposing a surcharge or a discount due to certain factors; creating s. 627.385, F.S.; providing rules of conduct for residual market board members; creating s. 627.4065, F.S.; providing for notice of right to return health insurance policies; creating s. 627.41345, F.S.; prohibiting an insurer or agent from issuing or signing certain certificates of insurance; providing that the terms of the policy control in case of conflict; amending s. 627.7015, F.S.; defining the term "claim" for purposes of alternative procedures for resolving disputed property insurance claims; amending s. 627.7276, F.S.; providing for notice of coverage of automobile policies; creating s. 627.795, F.S.; providing guidelines for title insurance policies; amending s. 627.918, F.S.; directing the department to adopt rules relating to reporting formats; amending s. 641.3108, F.S.; requiring health maintenance organizations to provide certain information to subscriber groups whose contract is not renewed for certain reasons; amending s. 631.57, F.S.; exempting malpractice premiums from assessments that are due to insolvent property insurers; amending s. 627.351, F.S.; increasing the qualifying statutory surplus amount for the Florida Windstorm Underwriting Association Limited Apportionment Status; amending s. 627.7295, F.S.; providing an additional exception to a requirement that a minimum of 2 months' premium be collected to issue a policy or binder for motor vehicle insurance; amending s. 627.901, F.S.; authorizing insurance agents and insurers that finance premiums for certain policies to charge interest or a service charge at a specified rate on unpaid premiums on those policies; creating s. 626.9651, F.S.; directing the department to adopt rules to govern the use of a consumer's nonpublic personal financial and health information by health insurers and health maintenance organizations; providing standards governing the rules; providing an effective date.

On motion by Rep. Goodlette, the House acceded to the request of the Senate and returned **CS for SB 2060**.

Recessed

The House stood in informal recess at 3:25 p.m.

Reconvened

The House was called to order by the Chair, Rep. Ball, at 3:33 p.m. A quorum was present [Session Vote Sequence: 291].

Continuation of Bills and Joint Resolutions on Third Reading

HB 1431—A bill to be entitled An act relating to welfare transition; providing a short title; providing legislative intent; authorizing the Passport to Economic Progress demonstration program in specified areas; requiring the Department of Children and Family Services to pursue federal government waivers as necessary; increasing the amount of income that may be disregarded in determining eligibility for temporary cash assistance for families residing in the demonstration areas; authorizing an extended period of time for the receipt of welfare-transition benefits by families residing in the demonstration areas; providing legislative findings; directing Workforce Florida, Inc., to create a transitional wage supplementation program; authorizing wage supplementation payments to certain individuals; requiring an evaluation and reports on the demonstration program; providing for conflicts of laws; providing appropriations; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 292

Yeas—116

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

On motion by Rep. Byrd, the rules were waived and—

CS for CS for SB 1672—A bill to be entitled An act relating to welfare transition; providing a short title; providing legislative intent; authorizing the Passport to Economic Progress demonstration program in specified areas; requiring Workforce Florida, Inc., and the Department of Children and Family Services to pursue federal-government waivers as necessary; increasing the amount of income that may be disregarded in determining eligibility for temporary cash assistance for families residing in the demonstration areas; authorizing an extended period of time for the receipt of welfare-transition benefits by families residing in the demonstration areas; providing legislative findings; directing Workforce Florida, Inc., to create a transitional wage supplementation program; authorizing wage supplementation payments to certain individuals; requiring an evaluation and reports on the demonstration program; providing for conflicts of laws; providing appropriations; providing an effective date.

—was substituted for HB 1431 and read the second time by title. Under Rule 10.13(b), the Senate bill was referred to the Engrossing Clerk.

Reconsideration of HB 1431

On motion by Rep. Byrd, the House reconsidered the vote by which **HB 1431**, as amended, passed earlier today.

The question recurred on the passage of HB 1431.

On motion by Rep. Byrd, **HB 1431** was laid on the table.

HB 1865—A bill to be entitled An act relating to the judiciary; amending s. 26.031, F.S.; increasing the number of judges in specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges in specified county courts; providing for appointment by the Governor; providing an effective date.

—was read the third time by title.

Representative(s) Ball offered the following:

(Amendment Bar Code: 732705)

Amendment 2 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsections (1), (2), (4), (5), (6), (7), (9), (10), (11), (13), (15), (17), (18), and (20) of section 26.031, Florida Statutes, are amended to read:

26.031 Judicial circuits; number of judges.—The number of circuit judges in each circuit shall be as follows:

JUDICIAL CIRCUIT	TOTAL
(1) First	*21* ~~20~~
(2) Second	*15* ~~13~~
(4) Fourth	*31* ~~30~~
(5) Fifth	*23* ~~22~~
(6) Sixth	*40* ~~39~~
(7) Seventh	*23* ~~22~~
(9) Ninth	*36* ~~35~~
(10) Tenth	*20* ~~19~~
(11) Eleventh	*72* ~~71~~
(13) Thirteenth	*36* ~~35~~
(15) Fifteenth	*33* ~~32~~
(17) Seventeenth	*51* ~~49~~
(18) Eighteenth	*23* ~~22~~
(20) Twentieth	*22* ~~21~~

Section 2. Current subsections (5), (6), (16), (29), (36), (46), (48), (51), (52), (53), and (58) of section 34.022, Florida Statutes, are amended, current subsection (13) of said section is renumbered as subsection (43) and amended, and subsections (14) through (43) of said section are renumbered as subsections (13) through (42), respectively, to read:

34.022 Number of county court judges for each county.—The number of county court judges in each county shall be as follows:

COUNTY	TOTAL
(5) Brevard	*8* ~~7~~
(6) Broward	*26* ~~25~~
(15)~~(16)~~ Duval	*15* ~~14~~
(28)~~(29)~~ Hillsborough	*15* ~~14~~
(35)~~(36)~~ Lee	*7* ~~6~~
(43)~~(13)~~ *Miami-Dade* ~~Dade~~	41
(46) Okaloosa	*3* ~~2~~
(48) Orange	*15* ~~14~~
(51) Pasco	*4* ~~3~~
(52) Pinellas	*14* ~~13~~
(53) Polk	*9* ~~8~~
(58) Sarasota	*5* ~~4~~

Section 3. *The judges filling new offices created by this act shall be appointed by the Governor and shall take office for a term beginning on January 2, 2002.*

Section 4. *In addition to the funding provided in the General Appropriations Act for the 2001-2002 fiscal year for creating 26 additional judgeships, effective January 1, 2002, the sum of $119,702 is appropriated from the General Revenue Fund and 2 additional positions are authorized in the state courts system for the additional judgeships created by this act. It is the intent of the Legislature that this appropriation be annualized in the following fiscal year.*

Section 5. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, line 7

insert after the semicolon: providing an appropriation;

Rep. Crow moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 1865. The vote was:

Session Vote Sequence: 293

Yeas—112

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

Nays—None

Votes after roll call:
Yeas—Ausley, Seiler, Weissman, Wishner

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 1223—A bill to be entitled An act relating to construction permitting and inspection; creating the Building Construction Permitting and Inspection Task Force; providing responsibilities; providing for appointment of members; providing for meetings and staffing by the Florida Building Commission; providing for recommendations and a report by a date certain; providing an effective date.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 445897)

Technical Amendment 2—On page 2, line 5,
remove from the bill: .

and insert in lieu thereof: *; and*

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

The question recurred on the passage of HB 1223. The vote was:

Session Vote Sequence: 294

Yeas—118

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

Nays—None

Votes after roll call:
Yeas—Ausley, Weissman

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

CS for SB 836—A bill to be entitled An act relating to health insurers and health maintenance organizations; creating s. 627.6474, F.S.; prohibiting health insurers from requiring certain contracted health care practitioners to accept the terms of other health care contracts as a condition of continuation or renewal; providing exceptions; amending s. 627.662, F.S.; applying this prohibition to group health insurance, blanket health insurance, and franchise health insurance; amending s. 641.315, F.S.; applying this prohibition to health maintenance organizations; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 295

Yeas—115

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

Nays—None

Votes after roll call:
Yeas—Melvin

So the bill passed and was immediately certified to the Senate.

HB 1777 was taken up. On motion by Rep. Murman, the rules were waived and—

CS for SB 2118—A bill to be entitled An act relating to educational facilities; amending s. 847.001, F.S.; adding and revising definitions; creating s. 847.0134, F.S.; prohibiting the location of adult entertainment establishments within a specified distance of a school; providing a criminal penalty; providing an exception; providing an effective date.

—was substituted for HB 1777 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Murman, the rules were waived and CS for SB 2118 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 296

Yeas—120

The Chair	Bullard	Gottlieb	Lee
Alexander	Byrd	Green	Lerner
Allen	Cantens	Greenstein	Littlefield
Andrews	Carassas	Haridopolos	Lynn
Argenziano	Clarke	Harper	Machek
Arza	Crow	Harrell	Mack
Attkisson	Cusack	Harrington	Mahon
Atwater	Davis	Hart	Mayfield
Ausley	Detert	Henriquez	Maygarden
Baker	Diaz de la Portilla	Heyman	McGriff
Barreiro	Diaz-Balart	Hogan	Meadows
Baxley	Dockery	Holloway	Mealor
Bean	Farkas	Jennings	Melvin
Bendross-Mindingall	Fasano	Johnson	Miller
Bennett	Feeney	Jordan	Murman
Bense	Fields	Joyner	Needelman
Benson	Fiorentino	Justice	Negron
Berfield	Flanagan	Kallinger	Paul
Betancourt	Frankel	Kendrick	Peterman
Bilirakis	Gannon	Kilmer	Pickens
Bowen	Garcia	Kosmas	Prieguez
Brown	Gardiner	Kottkamp	Rich
Brummer	Gelber	Kravitz	Richardson
Brutus	Gibson	Kyle	Ritter
Bucher	Goodlette	Lacasa	Romeo

Ross	Simmons	Sorensen	Waters
Rubio	Siplin	Spratt	Weissman
Russell	Slosberg	Stansel	Wiles
Ryan	Smith	Trovillion	Wilson
Seiler	Sobel	Wallace	Wishner

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 1067—A bill to be entitled An act relating to public records; creating ss. 458.353 and 459.028, F.S.; providing exemptions from public records requirements for information contained in reports made by physicians and osteopathic physicians of adverse incidents occurring in office practice settings; providing for future review and repeal; providing findings of public necessity; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 297

Yeas—116

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

Nays—1

Carassas

Votes after roll call:
Yeas—Andrews, Fiorentino

So the bill passed, as amended, and was immediately certified to the Senate.

On motion by Rep. Allen, consideration of **CS/HB 789** was temporarily postponed under Rule 11.10.

CS/HB 1805—A bill to be entitled An act relating to public records; amending s. 316.066, F.S.; providing an exemption from public-records requirements for motor vehicle crash reports that reveal specified information; providing that such reports may be made available to certain parties; providing for future review and repeal; providing penalties for the unlawful disclosure of confidential information and for unlawfully obtaining or attempting to obtain confidential information; providing findings of public necessity; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 298

Yeas—115

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

Nays—None

Votes after roll call:
Yeas—Argenziano, Fields, Littlefield, Romeo
Yeas to Nays—Carassas

So the bill passed, as amended, and was immediately certified to the Senate.

HB 579—A bill to be entitled An act relating to the Uniform Commercial Code; revising ch. 679, F.S., relating to secured transactions; creating ss. 679.1011, 679.1021, 679.1031, 679.1041, 679.1051, 679.1061, 679.1071, 679.1081, 679.1091, 679.1101, F.S.; providing a short title, definitions, and general concepts; creating ss. 679.2011, 679.2021, 679.2031, 679.2041, 679.2051, 679.2061, 679.2071, 679.2081, 679.209, 679.210, F.S.; providing for the effectiveness and attachment of security agreements; prescribing rights and duties of secured parties; creating ss. 679.3011, 679.3021, 679.3031, 679.3041, 679.3051, 679.3061, 679.3071, 679.3081, 679.091, 679.3101, 679.3111, 679.3121, 679.3131, 679.3141, 679.3151, 679.3161, 679.3171, 679.3181, 679.319, 679.320, 679.321, 679.322, 679.323, 679.324, 679.325, 679.326, 679.327, 679.328, 679.329, 679.330, 679.331, 679.332, 679.333, 679.334, 679.335, 679.336, 679.337, 679.338, 679.340, 679.341, 679.342, F.S.; providing for perfection and priority of security interests; creating ss. 679.40111, 679.4021, 679.4031, 679.4041, 679.4051, 679.4061, 679.4071, 679.4081, 679.409, F.S.; prescribing rights of third parties; providing legislative findings; creating ss. 679.5011, 679.5021, 679.5031, 679.5041, 679.5051, 679.5061, 679.5071, 679.508, 679.509, 679.510, 679.511, 679.512, 679.513, 679.524, 679.515, 679.516, 679.517, 679.518, 679.519, 679.520, 679.521, 679.522, 679.523, 679.524, 679.525, 679.526, 679.527, F.S.; prescribing filing procedures for perfection of a security interest; providing forms; providing duties and operation of filing office; providing definitions relating to the Florida Secured Transaction Registry; requiring the Department of State to cease operating as designated filing officer and filing office for certain purposes; providing duties and responsibilities of the Department of State relating to contracting for the administration, operation, and maintenance of the

registry; providing criteria for the registry; operation of a filing office; providing definitions relating to the Florida Secured Transaction Registry; requiring the Department of State to cease operating as designated filing officer and filing office for certain purposes; providing duties and responsibilities of the Department of State relating to contracting for the administration, operation, and maintenance of the registry; creating ss. 679.601, 679.602, 679.603, 679.604, 679.605, 679.606, 679.607, 679.608, 679.609, 679.610, 679.611, 679.612, 679.613, 679.614, 679.615, 679.616, 679.617, 679.618, 679.619, 679.620, 679.621, 679.622, 679.623, 679.624, 679.625, 679.626, 679.627, F.S.; prescribing procedures for default and enforcement of security interests; providing for forms; creating ss. 679.701, 679.702, 679.703, 679.704, 679.705, 679.706, 679.707, 679.708, 679.709, F.S.; providing transitional effective dates and savings clause for perfected and unperfected security interests, specified actions, and financing statements; specifying priority of conflicting claims; amending s. 671.105, F.S.; specifying the precedence of law governing the perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens; amending s. 671.201, F.S.; revising definitions used in the Uniform Commercial Code; amending s. 672.103, F.S.; conforming a cross-reference; amending s. 672.210, F.S.; providing that the creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially affects the buyer unless the enforcement actually results in a delegation of material performance of the seller; amending s. 672.326, F.S.; eliminating provisions relating to consignment sales; amending s. 672.502, F.S.; modifying buyers' rights to goods on a seller's repudiation, failure to deliver, or insolvency; amending s. 672.716, F.S.; providing that, for goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property; amending s. 674.2101, F.S.; conforming a cross-reference; creating s. 675.1181, F.S.; specifying conditions under which an issuer or nominated person has a security interest in a document presented under a letter of credit; amending ss. 677.503, 678.1031, F.S.; conforming cross-references; amending s. 678.1061, F.S.; specifying a condition under which a purchaser has control of a security entitlement; amending s. 678.1101, F.S.; modifying rules that determine a securities intermediary's jurisdiction; amending s. 678.3011, F.S.; providing for delivery of a certificated security to a purchaser; amending s. 678.3021, F.S.; eliminating a requirement that a purchaser of a certificated or uncertificated security receive delivery prior to acquiring all rights in the security; amending s. 678.5101, F.S.; prescribing rights of a purchaser of a security entitlement from an entitlement holder; amending ss. 680.1031, 680.303, 680.307, 680.309, F.S.; conforming cross-references; repealing ss. 679.101, 679.102, 679.103, 679.104, 679.105, 679.106, 679.107, 679.108, 679.109, 679.110, 679.112, 679.113, 679.114, 679.115, 679.116, F.S., relating to the short title, applicability, and definitions of ch. 679, F.S.; repealing ss. 679.201, 679.202, 679.203, 679.204, 679.205, 679.206, 679.207, 679.208, F.S., relating to the validity of security agreements and the rights of parties to such agreements; repealing ss. 679.301, 679.302, 679,303, 679.304, 679.305, 679.306, 679.307, 679.308, 679.309, 679.310, 679.311, 679.312, 679.313, 679.314, 679.315, 679.316, 679.317, 679.318, F.S., relating to rights of third parties, perfected and unperfected security interests, and rules of priority; repealing ss. 679.401, 679.4011, 679.402, 679.403, 679.404, 679.405, 679.406, 679.407, 679.408, F.S., relating to filing of security interests; repealing ss. 679.501, 679.502, 679.503, 679.504, 679.505, 679.506, 679.507, F.S., relating to rights of the parties upon default under a security agreement; providing effective dates.

—was read the third time by title.

Representative(s) Brown offered the following:

(Amendment Bar Code: 565657)

Amendment 4—On page 94, line 27, through page 95, line 14,
remove from the bill: all of said lines,

and insert in lieu thereof: *Subsections (4) and (6) do not apply to the creation, attachment, perfection, or enforcement of a security interest in:*

(a) A claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. subsection 104(a)(1) or (2).

(b) A claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. subsection 104(a)(2).

(c) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. subsection 1396p(d)(4).

(d) The interest of a debtor who is a natural person in unemployment, alimony, disability, pension, or retirement benefits or victim compensation funds.

(e) The interest of a debtor who is a natural person in other benefits which are designated solely for his or her maintenance, support, or education, the assignability of which is expressly prohibited or restricted by statute.

(9) Subsections (4), (6), and (8) apply only to a security interest created after January 1, 2002.

(10) This section does not apply to an assignment of a health-care-insurance receivable.

(11) This section prevails over any inconsistent statute, rule, or regulation.

Rep. Brown moved the adoption of the amendment.

Representative(s) Brown offered the following:

(Amendment Bar Code: 965073)

Amendment 1 to Amendment 4—On page 1, line 23-25,
remove from the amendment: all of said lines

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

The question recurred on the adoption of **Amendment 4**, as amended, which was adopted by the required two-thirds vote.

Representative(s) Brown offered the following:

(Amendment Bar Code: 092429)

Amendment 5—On page 99, lines 3-18,
remove from the bill: all of said lines,

and insert in lieu thereof:

(6) Subsections (1) and (3) do not apply to the creation, attachment, perfection, or enforcement of a security interest in:

(a) A claim or right to receive compensation for injuries or sickness as described in 26 U.S.C. subsection 104(a)(1) or (2).

(b) A claim or right to receive benefits under a special needs trust as described in 42 U.S.C. subsection 1396p(d)(4).

(c) The interest of a debtor who is a natural person in unemployment, alimony, disability, pension, or retirement benefits or victim compensation funds.

(d) The interest of a debtor who is a natural person in other benefits which are designated solely for his or her maintenance, support, or education, the assignability of which is expressly prohibited or restricted by statute.

However, this provision shall not preclude such debtor's creation, attachment, perfection, or enforcement of a security interest in a settlement arising from a personal injury claim other than one against an employer arising out of the debtor's employment.

(7) Subsections (1), (3), and (6) apply only to a security interest created after January 1, 2002.

Rep. Brown moved the adoption of the amendment.

Representative(s) Brown offered the following:

(Amendment Bar Code: 493395)

Amendment 1 to Amendment 5—On page 2, lines 4-8, remove from the amendment: all of said lines,

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

The question recurred on the adoption of **Amendment 5**, as amended, which was adopted by the required two-thirds vote.

Representative(s) Crow offered the following:

(Amendment Bar Code: 442685)

Amendment 6—On page 124, lines 27 and 28, remove from the bill: all of said lines

and insert in lieu thereof:

(a) For filing an initial financing statement, $25 for the first page, which shall include

Rep. Crow moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Crow offered the following:

(Amendment Bar Code: 461943)

Amendment 7 (with title amendment)—On page 194, between lines 23 and 24, of the bill

insert:

Section 29. Section 285.20, Florida Statutes, is created to read:

285.20 Tribal Secured Transactions Filing Offices.—

(1) If the governing body of the Seminole Tribe of Florida or the governing body of the Miccosukee Tribe of Indians adopts or enacts a law or ordinance governing secured transactions arising within or relating to the reservation of such tribe in this state, and if such tribal law or ordinance authorizes financing statements and other records relating to secured transactions to be filed:

(a) With the Department of State or such other central filing office as may be established from time to time under the Uniform Commercial Code of this state, then the Department of State or other central filing office, including any private secured transaction registry that may be designated as such in this state, shall accept and process such filings made under the tribal secured transactions law in accordance with this section and the provisions of chapter 679; or

(b) With the office of the clerk of circuit court in any county of this state in which the tribal secured transactions law requires a local filing, then such county filing office shall accept and process such filings made under such tribal law in accordance with this section and the provisions of chapter 28.

(2) The filing office shall not be required to accept any financing statements or other records communicated for filing under a tribal secured transactions law unless they satisfy the same filing requirements then applicable to financing statements and other records communicated to that filing office under the Uniform Commercial Code of this state, including the payment of the same filing, processing, or recording charges or fees then charged by that filing office for filing or recording comparable financing statements and other records under the Uniform Commercial Code of this state.

(3) The filing office shall maintain and index its records of all financing statements or other records filing with that filing office under the tribal secured transactions law together with and in the same manner as its records of financing statements and other records filed under the Uniform Commerical Code of this state. The filing office shall not be required to record or index separately, or otherwise segregate in any manner, any such filings made under the tribal secured transactions law from other filings made under the Uniform Commerical Code of this state. In all respects, the filing office shall have the same duties and responsibilities with respect to filings made under the tribal secured transactions law as with respect to filings made under the Uniform Commercial Code of this state.

And the title is amended as follows:

On page 5, line 14,

after the semicolon insert: creating s. 285.20, F.S.; establishing the Tribal Secured Transactions Filing Offices;

Rep. Crow moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Brown offered the following:

(Amendment Bar Code: 645931)

Amendment 8 (with title amendment)—On page 194, between lines 23 and 24,

insert:

Section 29. *Nothing contained in s. 679.4061, Florida Statutes, or s. 679.4081, Florida Statutes, as created by this act, shall supersede the provisions of SB 108 or HB 767, relating to structured settlements, if Senate Bill 108 or House Bill 767 becomes a law.*

And the title is amended as follows:

On page 5, line 14, after the semicolon,

insert: specifying nonsupersession of certain provisions;

Rep. Brown moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 579. The vote was:

Session Vote Sequence: 299

Yeas—118

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

Nays—None

Votes after roll call:
Yeas—Bendross-Mindingall, Meadows

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Rubio, consideration of **CS/HB 1189** was temporarily postponed under Rule 11.10.

CS/HB 1385—A bill to be entitled An act relating to public meetings and public records; creating s. 414.106, F.S.; providing an exemption from public meetings requirements for meetings or portions of meetings held by the Department of Children and Family Services, Workforce Florida, Inc., a regional workforce board, or a local committee at which personal identifying information contained in records relating to temporary cash assistance which identifies a participant, participant's family, or participant's family or household member is discussed; creating s. 414.295, F.S.; providing an exemption from public records requirements for personal identifying information contained in records relating to temporary cash assistance which identifies a participant, participant's family, or participant's family or household member held by the Department of Children and Family Services, the Agency for Workforce Innovation, Workforce Florida, Inc., the Department of Management Services, the Department of Health, the Department of Revenue, the Department of Education, a regional workforce board, a local committee, or service providers under contract with any of these entities; authorizing release of such information under specified circumstances; amending s. 445.007, F.S.; providing an exemption from public meetings requirements for meetings or portions of meetings held by Workforce Florida, Inc., a regional workforce board, or a local committee at which personal identifying information contained in records relating to temporary cash assistance which identifies a participant, participant's family, or participant's family or household member is discussed; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 300

Yeas—112

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

Nays—1

Bucher

Votes after roll call:
Yeas—Joyner, Justice, Smith, Spratt, Waters
Nays—Carassas
Nays to Yeas—Bucher

So the bill passed and was immediately certified to the Senate.

HB 1197—A bill to be entitled An act relating to legislative oversight of governmental programs; amending s. 11.40, F.S.; authorizing the Legislative Auditing Committee to direct the Auditor General and the Office of Program Policy Analysis and Government Accountability to conduct audits, reviews, and examinations of certain entities; authorizing the Legislative Auditing Committee to conduct investigations; authorizing the Legislative Auditing Committee to hold hearings; amending s. 11.42, F.S.; revising the requirements to become Auditor General; transferring report requirement; revising the employment restrictions for employees of the Auditor General; exempting the Auditor General from certain provisions; amending s. 11.45, F.S.; revising definitions; providing for duties of the Auditor General; transferring certain district school board authority; transferring the requirement that a charter school provide for an annual financial audit; transferring the requirement that certain district school boards have certain financial audits; providing for authority of the Auditor General; providing for scheduling and staffing of audits conducted by the Auditor General; requiring the Legislative Auditing Committee to direct an audit of a municipality by the Auditor General under certain circumstances; authorizing a local governmental entity to request an audit by the Auditor General; transferring the requirement that the Office of Program Policy Analysis and Government Accountability maintain a schedule of performance audits; deleting the requirement that the Office of Program Policy Analysis and Government Accountability identify and comment upon certain alternatives in conducting a performance audit; transferring a report distribution requirement; transferring the annual financial auditing provisions related to local governmental entities; transferring the auditor selection procedures for local governmental entities, district school boards, and charter schools; transferring the penalty provisions for failure to file an annual financial audit; providing for Auditor General reporting requirements; transferring the penalty provisions for failure by a local governmental entity to pay for the cost of an audit by the Auditor General; transferring the Legislative Auditing Committee's authority to conduct investigations; deleting the content required within an audit report issued by the Auditor General; deleting the requirement that an agency head must file a report; deleting a report issued by the Auditor General and the Office of Program Policy Analysis and Government Accountability; transferring the authority for district school boards and district boards of trustees of community colleges for performance audits and financial audits; amending s. 11.47, F.S.; requiring certain officers to provide the Office of Program Policy Analysis and Government Accountability with information; requiring the staff of the Office of Program Policy Analysis and Government Accountability to make proper examinations; providing criminal penalties for false reports; providing penalties for persons who fail to provide the Office of Program Policy Analysis and Government Accountability with records; amending s. 11.51, F.S.; redefining the duties of the office; eliminating the provision requiring the Auditor General to provide administrative support for the office; requiring the office to maintain a schedule of examinations; providing authority to the office to examine certain programs; requiring the office to deliver preliminary findings; providing deadlines for responses to preliminary findings; requiring the office to conduct followup reports; amending s. 11.511, F.S.; redefining the duties of the director of the Office of Program Policy Analysis and Government Accountability; revising employment restrictions for the office staff; providing for postponement of examinations; amending s. 11.513, F.S.; correcting cross references; transferring the authority of the Legislative Auditing Committee; transferring and rewording the authority of the director of the Office of Program Policy Analysis and Government Accountability to postpone projects; amending ss. 14.29, 20.2551, 288.1226, 320.08058, and 943.2569, F.S.; providing for audits of programs; amending s. 20.055, F.S.; transferring the review of state agencies' internal audit reports conducted by the Auditor General; providing responsibilities to agencies' inspectors general; amending ss.

24.105, 39.202, 119.07, 195.084, 213.053, 944.719, and 948.15, F.S.; providing authority to the Office of Program Policy Analysis and Government Accountability to access confidential records; amending s. 24.120, F.S.; requiring the Department of the Lottery to provide access to the facilities of the department to the Office of Program Policy Analysis and Government Accountability; amending s. 27.3455, F.S.; deleting a reporting requirement; correcting cross references; amending ss. 30.51, 116.07, 122.03, 122.08, 145.022, 145.14, 154.331, 206.60, 212.08, 290.0056, 403.864, 657.008, and 946.31, F.S.; deleting obsolete provisions; amending ss. 110.109, 216.177, 216.178, 216.292, 334.0445, and 985.311, F.S.; designating the Office of Program Policy Analysis and Government Accountability as a recipient of information; amending s. 112.313, F.S.; expanding the definition of employees subject to postemployment restrictions to include the director of the Office of Program Policy Analysis and Government Accountability; amending s. 112.324, F.S.; expanding the list of persons subject to consequences regarding a breach of public trust to include the director and staff of the Office of Program Policy Analysis and Government Accountability; amending ss. 112.63, 175.261, 185.221, 189.4035, 189.412, 189.418, 189.419, 215.94, 230.23025, and 311.07, F.S.; correcting cross references; amending s. 125.01, F.S.; deleting a requirement that the Auditor General retain county audit reports for a specific period of time; amending s. 125.0104, F.S.; providing for reimposition of a tourist development tax without referendum approval under certain conditions; amending ss. 154.11, 253.025, and 259.041, F.S.; revising provisions related to the Auditor General; amending s. 163.356, F.S.; deleting the Auditor General from the list of entities receiving a report from a community redevelopment agency; amending s. 189.428, F.S.; revising the criteria to be utilized by a local government conducting an oversight review of a special district; amending ss. 193.074 and 196.101, F.S.; requiring the Office of Program Policy Analysis and Government Accountability to maintain confidentiality of records; amending ss. 195.096, 228.056, 228.505, 455.32, and 471.038, F.S.; revising provisions related to certain audits; amending s. 215.44, F.S.; deleting the requirement that the Auditor General annually audit the State Board of Administration; revising provisions related to an examination by the Office of Program Policy Analysis and Government Accountability; creating s. 215.86, F.S.; providing for management systems and controls for state agencies; creating s. 215.98, F.S.; providing for audits of direct-support organizations and citizen support organizations; amending ss. 229.8021, 237.40, 240.299, 240.2995, 240.331, 240.3315, 240.5285, 240.711, 250.115, 266.0018, 267.17, 288.1229, 288.809, 372.0215, 413.615, 413.87, 446.609, 944.802, 960.002, and 985.4145, F.S.; providing for audits of direct-support organizations and citizen support organizations; amending s. 218.31, F.S.; providing additional definitions; amending s. 218.32, F.S.; providing that certain entities file an audit report with the Department of Banking and Finance; correcting a cross reference; providing for the Department of Banking and Finance to prescribe the format of local governmental entities that are required to provide for certain audits; transferring the penalty provisions relating to failure of a local governmental entity to file an annual financial report with the Department of Banking and Finance; amending s. 218.33, F.S.; revising provisions related to the establishment of uniform accounting practices and procedures; amending s. 218.38, F.S.; transferring penalty provisions for failure to verify or provide information to the Division of Bond Finance within the State Board of Administration; creating s. 218.39, F.S.; providing for audits of local governmental entities, district school boards, charter schools, and charter technical career centers; providing for the format of county audits; authorizing dependent special districts to be included within the audit of a county or municipality; prohibiting an independent special district from being included within the audit of a county or municipality; providing for a management letter within each audit report; providing for discussion of the auditor's findings and recommendations; providing for a response to the auditor's findings and recommendations; requiring that a predecessor auditor of a district school board provide the Auditor General with access to the prior year's working papers; requiring certain audits to be conducted in accordance with rules adopted by the Auditor General; creating s. 218.391, F.S.; providing for auditor selection procedures; amending s. 218.415, F.S.; correcting a cross reference; transferring responsibilities of the Auditor General; transferring penalty provisions; amending s. 228.093, F.S.; providing authority to the Office of Program Policy Analysis and Government Accountability to access records; requiring the Office of Program Policy Analysis and Government Accountability to maintain confidentiality of records; requiring the office to destroy personally identifiable data under certain circumstances; amending s. 230.23, F.S.; authorizing school boards to employ an internal auditor; authorizing school boards to hire independent certified public accountants; amending s. 240.214, F.S.; clarifying that accountability reports are to be designed in consultation with the Office of Program Policy Analysis and Government Accountability; amending s. 240.311, F.S.; providing authority to the Office of Program Policy Analysis and Government Accountability to require and receive supplemental data; creating s. 240.3631, F.S.; authorizing district boards of trustees of community colleges to hire an independent certified public accountant to conduct audits; amending s. 240.512, F.S.; providing authority to the Office of Program Policy Analysis and Government Accountability to require and receive supplemental data; providing authority to the Office of Program Policy Analysis and Government Accountability to access confidential records; requiring the office to maintain confidentiality; amending s. 240.551, F.S.; providing for audits of direct-support organizations; deleting a paragraph which provides for audits of direct-support organizations; amending ss. 240.609, 288.9517, 296.17, 296.41, 403.1826, 550.125, 601.15, and 744.708, F.S.; providing authority to the Office of Program Policy Analysis and Government Accountability to examine programs; amending s. 290.015, F.S.; providing responsibilities to the Office of Program Policy Analysis and Government Accountability regarding the Florida Enterprise Zone Act of 1994; amending ss. 320.023, 320.08062, and 322.081, F.S.; deleting provisions related to audits of certain organizations; requiring annual attestations of certain organizations; transferring the Auditor General's authority to conduct audits; amending s. 339.406, F.S.; revising provisions related to audits of transportation corporations; providing the Department of Transportation and the Auditor General with the authority to conduct audits of transportation corporations; amending s. 365.171, F.S.; revising the provision related to auditing the 911 fees; correcting a cross reference; amending s. 373.45926, F.S.; replacing certain terms; amending s. 373.507, F.S.; deleting an obsolete provision; correcting a cross reference; providing for the distribution of audits of water management districts; amending ss. 402.73, 411.01, and 413.88, F.S.; deleting provisions related to an audit by the Auditor General; amending s. 403.8532, F.S.; replacing certain terms; amending s. 411.221, F.S.; adding reports issued by the Office of Program Policy Analysis and Government Accountability to the information considered in strategic plan revisions; amending s. 570.903, F.S.; transferring the authority for certain direct-support organizations to conduct business; providing for audits of direct-support organizations; amending s. 616.263, F.S.; providing the Auditor General with the authority to conduct audits; amending s. 943.25, F.S.; providing for the conduct of audits of the criminal justice trust fund; amending s. 944.512, F.S.; providing that certain costs are to be certified by a prosecuting attorney and an imprisoning entity and subject to review by the Auditor General; amending s. 957.07, F.S.; providing responsibilities for the Department of Corrections and the Auditor General; amending ss. 957.11 and 985.416, F.S.; transferring duties from the Auditor General to the Office of Program Policy Analysis and Government Accountability; repealing s. 11.149, F.S., relating to nonapplication of certain provisions to the Legislative Auditing Committee or the Auditor General; repealing s. 11.46, F.S., relating to accounting procedures; repealing s. 125.901(2)(e), F.S., relating to audits of independent special districts related to children's services; repealing ss. 215.56005(2)(l), 216.2815, 228.053(11), 228.082(6), 253.037(3), 288.906(2), 288.9616, 298.65, 348.69, 374.987(3), 380.510(8), 400.335, 403.1837(14), 440.49(14)(i), and 517.1204(14), F.S., relating to authority of the Auditor General to conduct audits; repealing s. 218.415(23), F.S., relating to local government investments; repealing s. 265.607, F.S., relating to audits of local cultural sponsoring organizations; repealing s. 331.419(3), F.S.; deleting obsolete provisions; repealing s. 339.413, F.S., relating to audits of transportation corporations; repealing s. 373.589, F.S., relating to audits of water management districts; repealing s. 388.331, F.S., relating to audits of mosquito control districts and mosquito control programs; repealing ss. 570.912, 581.195, 589.013, and 590.612, F.S., relating to direct support organizations within the Department of Agriculture; amending s.

189.4042, F.S.; providing that an inactive independent special district that was created by a county or municipality through a referendum may be dissolved by the county or municipality after publication of notice as required for the declaration of the inactive status of a special district; amending s. 189.4044, F.S.; reducing the number of weeks such notice of declaration of inactive status must be published; amending s. 189.418, F.S.; providing that a dependent special district may only be budgeted separately with concurrence of the local governing authority upon which said dependent special district is dependent; deleting a requirement that the proposed budget of an independent special district located in one county be filed with the county; deleting requirements for each special district to file certain reports, information, and audits with the local governing authority; amending s. 189.419, F.S., to conform; amending s. 189.429, F.S.; providing the effect of the reenactment of existing law pursuant to the required codification of a special district charter; repealing s. 218.34, F.S.; providing an effective date.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 155681)

Technical Amendment 8—On page 70, line 23, remove "s."

and insert: section
and on page 172, line 28, through page 174, line 23,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 133. Section 189.418, Florida Statutes, is amended to read:

189.418 Reports; *budgets;* audits.—

(1) When a new special district is created, the district must forward to the department, within 30 days after the adoption of the special act, rule, ordinance, resolution, or other document that provides for the creation of the district, a copy of the document. In addition to the document or documents that create the district, the district must also submit a map of the district, showing any municipal boundaries that cross the district's boundaries, and any county lines if the district is located in more than one county. The department must notify the local government or other entity and the district within 30 days after receipt of the document or documents that create the district as to whether the district has been determined to be dependent or independent.

(2) Any amendment, modification, or update of the document by which the district was created, including changes in boundaries, must be filed with the department within 30 days after adoption. The department may initiate proceedings against special districts as provided in ss. 189.421 and 189.422 for failure to file the information required by this subsection.

(3) The governing body of each special district shall adopt a budget by resolution each fiscal year. The total amount available from taxation and other sources, including amounts carried over from prior fiscal years, must equal the total of appropriations for expenditures and reserves. The adopted budget must regulate expenditures of the special district, and it is unlawful for any officer of a special district to expend or contract for expenditures in any fiscal year except in pursuance of budgeted appropriations.

(4) The proposed budget of a dependent special district shall be presented in accordance with generally accepted accounting principles, contained within the general budget of the local governing authority, and be clearly stated as the budget of the dependent district. However, with the concurrence of the local governing authority, a dependent district may be budgeted separately.

(5) A local governing authority may, in its discretion, review the budget or tax levy of any special district located solely within its boundaries.

~~(3) Each special district shall file with the local general-purpose governing authority or authorities within the geographic boundaries of the district a copy of:~~

~~(a) The reports required by ss. 218.32 and 218.34;~~

~~(b) A complete description of all new bonds as provided in s. 218.38(1); and~~

~~(c) A map of the district and any subsequent boundary changes.~~

~~(4) Each special district shall make provisions for an annual independent postaudit of its financial records as provided in s. 11.45. A copy of the audit shall be filed with the local governing authority or authorities.~~

(6)~~(5)~~ All reports or information required to be filed

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

Representative(s) Berfield offered the following:

(Amendment Bar Code: 984229)

Amendment 9 (with title amendment)—On page 70, line 23, through page 71, line 23,
remove from the bill: all of said lines,

And the title is amended as follows:

On page 5, lines 13-16,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: time; amending ss. 154.11, 253.025, and

Rep. Berfield moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 1197. The vote was:

Session Vote Sequence: 301

Yeas—118

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

Consideration of **HB 1429** was temporarily postponed under Rule 11.10.

Consideration of **HB 1055** was temporarily postponed under Rule 11.10.

HB 1429—A bill to be entitled An act relating to automated external defibrillators; creating s. 768.1325, F.S.; creating the Cardiac Arrest Survival Act; providing definitions; providing immunity from liability for certain persons who use automated external defibrillators under certain circumstances; providing exceptions; repealing s. 768.13(4), F.S., relating to the Good Samaritan Act, to delete reference to the use of an automatic external defibrillator in certain emergency situations; amending s. 401.2915, F.S.; revising a provision of law relating to automatic external defibrillators to conform to the act; directing the Department of Health, with assistance from the Department of Management Services, to adopt rules to establish guidelines on the appropriate placement and deployment of automated external defibrillator devices in certain buildings owned or leased by the state; specifying factors to be considered in device placement and deployment; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 302

Yeas—113

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

Nays—None

Votes after roll call:
Yeas—Ausley, Seiler, Wishner

So the bill passed, as amended, and was immediately certified to the Senate.

Statement of Legislative Intent on HB 1429

On motion by Rep. Byrd, the rules were waived and the following statement was ordered spread upon the *Journal*, in order to establish legislative intent:

Rep. Byrd: Thank you, Mr. Speaker. This bill creates the Cardiac Arrest Survival Act to provide a qualified immunity to persons who use or attempt to use an automatic external defibrillator device. Provides a definition of "reckless disregard" to the type of conduct eliminating the qualified immunity protection. While reckless disregard is not defined in the bill, I note that it is the subject of Standard Jury Instruction MI-9 relative to the Good Samaritan provision for hospital emergency rooms, the commentary to which places it somewhere between simple negligence and gross negligence. This emergency room standard was applied in *Garcia v. Randle-Eastern Ambulance Service, Inc.,* which noted that commentators have rejected the application of the punitive damages standard in defining recklessness in an emergency situation.

HJR 1451—A joint resolution proposing an amendment to Section 3 of Article VII of the State Constitution relating to exemption from ad valorem taxation of certain tangible personal property.

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

That the following amendment to Section 3 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier election called for that purpose and, if approved, shall take effect January 1, 2003:

ARTICLE VII
FINANCE AND TAXATION

SECTION 3. Taxes; exemptions.—

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation.

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

(c) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant community and economic development ad valorem tax exemptions to new businesses and expansions of existing businesses, as defined by general law. Such an exemption may be granted only by ordinance of the county or municipality, and only after the electors of the county or municipality voting on such question in a referendum authorize the county or municipality to adopt such ordinances. An exemption so granted shall apply to improvements to real property made by or for the use of a new business and improvements to real property related to the expansion of an existing business and shall also apply to tangible personal property of such new business and tangible personal property related to the expansion of an existing business. The amount or limits of the amount of such exemption shall be specified by general law. The period of time for which such exemption may be granted to a new business or expansion of an existing business shall be determined by general law. The authority to grant such exemption shall expire ten years from the date of approval by the electors of the county or municipality, and may be renewable by referendum as provided by general law.

(d) By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.

(e) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant historic preservation ad valorem tax exemptions to owners of historic properties. This exemption may be granted only by ordinance of the county or municipality. The amount or limits of the amount of this exemption and the requirements for eligible properties must be specified

by general law. The period of time for which this exemption may be granted to a property owner shall be determined by general law.

(f) By general law and subject to conditions specified therein, in addition to any other exemption granted to tangible personal property pursuant to this section, all appurtenances and attachments to mobile home dwellings that are classified as tangible personal property and all appliances, furniture, and fixtures classified as tangible personal property which are included in single-family and multifamily residential rental facilities that have ten or fewer individual housing units may be exempted.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT
ARTICLE VII, SECTION 3

TAX EXEMPTION FOR CERTAIN TANGIBLE PERSONAL PROPERTY.—Proposing an amendment to the State Constitution, effective January 1, 2003, to allow the exemption from ad valorem taxation by general law, of all appurtenances and attachments to mobile home dwellings classified as tangible personal property and all appliances, furniture, and fixtures so classified which are included in single-family and multifamily residential rental facilities having 10 or fewer units.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 303

Yeas—118

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

Nays—None

So the joint resolution passed by the required constitutional three-fifths vote of the membership and was immediately certified to the Senate.

HB 1225—A bill to be entitled An act relating to economic development; amending s. 212.08, F.S.; revising certain procedures and conditions relating to the sales tax exemption for enterprise-zone building materials and business property; extending the community contribution tax credit provisions of the enterprise zone program to the state sales tax; amending s. 212.096, F.S.; redefining the terms "eligible business" and "new employee"; defining the terms "jobs" and "new job has been created"; revising the computation procedures of the enterprise-zone jobs credit against sales tax; amending s. 212.098, F.S.; redefining the term "eligible business"; defining the term "qualified area"; deleting provisions ranking qualified counties; limiting the amount of tax credits available during any one calendar year; providing for reduction or waiver of certain financial match requirements in rural areas by Rural Economic Development Initiative agencies and organizations; amending s. 220.03, F.S.; redefining the terms "new employee" and "project"; defining the terms "new job has been created" and "jobs"; amending s. 220.181, F.S.; revising the computation procedures of the enterprise-zone job credit against the corporate income tax; amending s. 220.183, F.S.; revising the eligibility, application, and administrative requirements of the community contribution corporate income tax credit program; amending s. 288.018, F.S.; revising administration and uses of the Regional Rural Development Grants Program; creating s. 288.019, F.S.; providing for a review and evaluation process of rural grants by Rural Economic Development Initiative agencies; amending s. 288.065, F.S.; expanding the scope of the Rural Community Revolving Loan Fund Program; amending s. 288.0656, F.S.; revising the membership of the Rural Economic Development Initiative; requiring an annual designation of staff representatives; amending s. 288.1088, F.S.; expanding eligible uses of the Quick Action Closing Fund; amending s. 288.9015, F.S.; revising the duties of Enterprise Florida, Inc.; amending s. 290.004, F.S.; defining the term "rural enterprise zone"; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in Sarasota County; providing requirements with respect thereto; amending s. 290.00555, F.S.; removing the December 31, 1999, deadline for creation of satellite enterprise zones by certain municipalities and authorizing creation of such zones effective retroactively to that date; providing duties of the Office of Tourism, Trade, and Economic Development; providing an application deadline for businesses in such zones eligible for certain sales and use tax incentives; amending s. 290.0065, F.S.; providing for certain rural enterprise zones; conforming agency references to changes in program administration; authorizing the Office of Tourism, Trade, and Economic Development in consultation with Enterprise Florida, Inc., to develop guidelines relating to the designation of enterprise zones; creating s. 290.00676, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to amend the boundaries of a rural enterprise zone and providing requirements with respect thereto; creating s. 290.00677, F.S.; modifying the employee residency requirements for the enterprise-zone job credit against the sales tax and corporate income tax if the business is located in a rural enterprise zone; creating s. 290.00694, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate rural champion communities as enterprise zones; providing requirements with respect thereto; amending s. 290.007, F.S.; revising the list of enterprise zone incentives to reflect the creation of a community contribution sales tax credit program; amending s. 290.048, F.S.; authorizing the Department of Community Affairs to establish advisory committees and solicit participation with respect to administering the Florida Small Cities Community Development Block Grant Program; repealing s. 290.049, F.S., relating to the Community Development Block Grant Advisory Council; repealing s. 370.28(4), F.S., which provides conditions for tax incentives in enterprise zone net–ban communities; amending s. 380.06, F.S.; providing for guidelines and standards for an area designated by the Governor as a rural area of critical economic concern; deleting a requirement that the Administration Commission adopt certain guidelines and standards by rule; amending s. 420.503, F.S.; redefining the terms "elderly" and "housing for the elderly" under the Florida Housing Finance Act; amending s. 420.507, F.S.; authorizing the Florida Housing Finance Corporation to create a recognition program to support affordable housing; amending s. 420.5088, F.S.; revising authority and eligibility criteria for certain loans made by the corporation under the Florida Homeownership Assistance Program; amending s. 420.5092, F.S.; increasing the amount of revenue bonds that may be issued under the Florida Affordable Housing Guarantee Program; amending s. 624.5105, F.S.; conforming definitions; revising eligibility and administrative requirements; amending s. 125.0103, F.S.; providing that a local

government may enact an ordinance for the purpose of increasing the supply of affordable housing using land use mechanisms; amending s. 166.043, F.S.; providing that a local government may enact an ordinance for the purpose of increasing the supply of affordable housing using land use mechanisms; amending s. 336.025, F.S.; allowing an additional use for local option fuel tax proceeds; providing effective dates.

—was read the third time by title.

Representative(s) Johnson offered the following:

(Amendment Bar Code: 153749)

Amendment 3 (with title amendment)—On page 5, line 6,

insert:

Section 1. If section 35 of chapter 2000-260, Laws of Florida, is repealed by section 58 of said chapter, paragraph (e) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter shall be as follows:

(e) The proceeds of all other taxes and fees imposed pursuant to this chapter shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this chapter shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Solid Waste Management Trust Fund.

3. After the distribution under subparagraphs 1. and 2., 9.653 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. After the distribution under subparagraphs 1., 2., and 3., 0.065 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

5. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 2.25 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

6. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 1.0715 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

7. Of the remaining proceeds:

a. Beginning July 1, 2000, and in each fiscal year thereafter, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties shall begin each fiscal year on or before January 5th and shall continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment shall continue until such time that the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards prior to July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 prior to July 1, 2000.

b. The department shall distribute $166,667 monthly pursuant to s. 288.1162 to each applicant that has been certified as a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise" pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each applicant that has been certified as a "facility for a retained spring training franchise" pursuant to s. 288.1162; however, not more than $208,335 may be distributed monthly in the aggregate to all certified facilities for a retained spring training franchise. Distributions shall begin 60 days following such certification and shall continue for not more than 30 years. Nothing contained in this paragraph shall be construed to allow an applicant certified pursuant to s. 288.1162 to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(6). However, a certified applicant is entitled to receive distributions up to the maximum amount allowable and undistributed under this section for additional renovations and improvements to the facility for the franchise without additional certification.

c. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, $166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, $83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of $999,996 shall be made, after certification and before July 1, 2000.

e. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as a certified sports industry economic development project pursuant to s. 288.113, and has generated new sales tax revenues that have been remitted to the state during the prior twelve months, a monthly sales tax reimbursement payment in the amount set forth in the notice by the Office of Tourism, Trade and Economic Development, based on actual sales tax generated over a 12-month period, shall be distributed to the applicant until the certification expires or notice is received by the department from the Office of Tourism, Trade, and Economic Development of a change in the applicant's certification status or in the certified monthly payment amount. The amount of the monthly sales tax reimbursement distribution shall be adjusted beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development that the applicant is to receive a reduced or increased sales tax reimbursement payment.

8. All other proceeds shall remain with the General Revenue Fund.

Section 2. If section 35 of chapter 2000-260, Laws of Florida, is not repealed by section 58 of said chapter, paragraph (e) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and s. 202.18(1)(b) and (2)(b) shall be as follows:

(e) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Solid Waste Management Trust Fund.

3. After the distribution under subparagraphs 1. and 2., 9.653 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. After the distribution under subparagraphs 1., 2., and 3., 0.065 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

5. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 2.25 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

6. For proceeds received after July 1, 2000, and after the distributions under subparagraphs 1., 2., 3., and 4., 1.0715 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

7. Of the remaining proceeds:

a. Beginning July 1, 2000, and in each fiscal year thereafter, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties shall begin each fiscal year on or before January 5th and shall continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment shall continue until such time that the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards prior to July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 prior to July 1, 2000.

b. The department shall distribute $166,667 monthly pursuant to s. 288.1162 to each applicant that has been certified as a "facility for a new professional sports franchise" or a "facility for a retained professional sports franchise" pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each applicant that has been certified as a "facility for a retained spring training franchise" pursuant to s. 288.1162; however, not more than $208,335 may be distributed monthly in the aggregate to all certified facilities for a retained spring training franchise. Distributions shall begin 60 days following such certification and shall continue for not more than 30 years. Nothing contained in this paragraph shall be construed to allow an applicant certified pursuant to s. 288.1162 to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(6). However, a certified applicant is entitled to receive distributions up to the maximum amount allowable and undistributed under this section for additional renovations and improvements to the facility for the franchise without additional certification.

c. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, $166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, $83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of $999,996 shall be made, after certification and before July 1, 2000.

e. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that an applicant has been certified as a certified sports industry economic development project pursuant to s. 288.113, and has generated new sales tax revenues that have been remitted to the state during the prior twelve months, a monthly sales tax reimbursement payment in the amount set forth in the notice by the Office of Tourism, Trade and Economic Development, based on actual sales tax generated over a 12-month period, shall be distributed to the applicant until the certification expires or notice is received by the department from the Office of Tourism, Trade, and Economic Development of a change in the applicant's certification status or in the certified monthly payment amount. The amount of the monthly sales tax reimbursement distribution shall be adjusted beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development that the applicant is to receive a reduced or increased sales tax reimbursement payment.

8. All other proceeds shall remain with the General Revenue Fund.

Section 3. Paragraph (k) of subsection (7) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(7) Notwithstanding any other provision of this section, the department may provide:

(k) Payment information relative to chapters 199, 201, 212, 220, and 221 to the Office of Tourism, Trade, and Economic Development in its administration of the tax refund program for qualified defense contractors authorized by s. 288.1045*,* ~~and~~ the tax refund program for qualified target industry businesses authorized by s. 288.106*, and the sales tax reimbursement program for certified sports industry economic development projects authorized by s. 288.113*.

Section 4. Section 288.113, Florida Statutes, is created to read:

288.113 Tax reimbursement program for certified sports industry economic development projects.—

(1) LEGISLATIVE FINDINGS AND DECLARATIONS.—The Legislature finds that attracting, retaining, and providing favorable

conditions for the growth of certified sports industry economic development projects provides high-quality employment opportunities for residents of the state, increases tourism, and enhances the economic foundations of the state. It is the policy of the state to encourage the growth of high-value-added employment to the economic base by providing a sales tax reimbursement to certified sports industry economic development projects that create new employment opportunities and generate new sales tax dollars by expanding businesses within the state or by bringing new businesses to the state.

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

(a) "Certified sports industry economic development project" or "project" means any amateur sports business that develops, operates, attracts, and retains multiyear amateur sporting events that generate new sales taxes for the state, has submitted a properly completed application to the Office of Tourism, Trade, and Economic Development, and has subsequently been certified by that office as a certified sports industry economic development project.

(b) "Sales tax reimbursement" means the monthly amount to be distributed through a reimbursement to a certified sports industry economic development project pursuant to s. 212.20. Such amount shall be determined by the Office of Tourism, Trade, and Economic Development as provided in this section.

(3) AMATEUR SPORTS BUSINESS ELIGIBLE TO APPLY.—

(a) Any amateur sports business that develops, operates, attracts, and retains multiyear amateur sporting events that generate new sales taxes for the state may submit to the Office of Tourism, Trade, and Economic Development an application for approval as a certified sports industry economic development project for the purpose of receiving a sales tax reimbursement on new sales taxes generated by increased new business and tourism activity directly attributable to the proposed amateur sports industry economic development project.

(b) The number of certified sports industry economic development projects shall not exceed three until June 30, 2006, and thereafter only one new certified sports industry economic development project may be certified by the Office of Tourism, Trade, and Economic Development each year.

(4) SALES TAX REIMBURSEMENT AND AUTHORIZED AMOUNT.—Pursuant to s. 212.20, each certified sports industry economic development project shall be eligible for a monthly distribution of its sales tax reimbursement in the amount determined by its sales tax reimbursement agreement with the Office of Tourism, Trade, and Economic Development. The amount shall be based on new sales tax revenues generated under chapter 212 by increased new business and tourism activity directly attributable to the project as determined using the sports economic impact model and, subject to other restrictions, returns 50 percent of that amount to the project. The total amount of sales tax reimbursement for all fiscal years estimated for each project shall not exceed 50 percent of the cost of the project as determined by the Office of Tourism, Trade, and Economic Development in the certification process set forth in subsection (6). The annualized amount of the monthly distribution shall be calculated by the Office of Tourism, Trade, and Economic Development and specified in the applicant's sales tax reimbursement agreement. Annual payment amounts shall be no less than $500,000 and no more than $2 million, unless the Office of Tourism, Trade, and Economic Development reduces payments below $500,000 under its authority to decertify a project as discussed in subsection (6).

(5) AUTHORIZED USE OF SALES TAX REIMBURSEMENT PAYMENTS.—After entering into a sales tax reimbursement agreement under subsection (7), a certified sports industry economic development project may receive a sales tax reimbursement for:

(a) Developing and implementing any component of the project's sports events and activities;

(b) Constructing, reconstructing, renovating, furnishing, equipping, or operating the project's facilities or events;

(c) Pledging payments or debt service on or funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds for the project's activities and facilities; or

(d) Paying the cost of relocating the project's corporate headquarters into the state.

(6) CERTIFICATION, RECERTIFICATION, AND DECERTIFICATION PROCEDURE.—

(a) The Office of Tourism, Trade, and Economic Development shall establish a certification process by which a proposed amateur sports industry economic development project may be approved by the office as a certified sports industry economic development project that is eligible to receive economic development incentives in the form of a sales tax reimbursement of a percentage of new sales taxes that have been generated and remitted to the state as a result of the certified sports industry economic development project.

(b) Before certifying an applicant under this subsection, the Office of Tourism, Trade, and Economic Development shall determine that the applicant has:

1. Completed an independent analysis or study, verified by the Office of Tourism, Trade, and Economic Development, which demonstrates that the proposed amateur sports industry economic development project will generate a minimum of $1 million annually in new sales tax revenues over a multiyear period.

2. Received commitments for amateur sports activities which demonstrate that the proposed amateur sports economic development project will bring to this state on a multiyear basis new proposed amateur sports economic development project activities that will generate a minimum of $1 million in new sales tax revenues annually, as verified by the Office of Tourism, Trade, and Economic Development.

3. Demonstrated that the applicant has provided, is capable of providing, or has financial or other commitments to provide more than one-half of the costs incurred in or related to the development of the proposed amateur sports industry economic development project.

(c) An amateur sports business that has previously been certified under this section and has received a sales tax reimbursement under that certification is ineligible for additional certification.

(d) Upon determining that a proposed amateur sports industry economic development project meets the established criteria for approval as a certified sports industry economic development project and qualifies for a sales tax reimbursement, the Office of Tourism, Trade, and Economic Development shall issue to the applicant a letter of certification that stipulates the terms of the sales tax reimbursement agreement and the penalties for failing to comply with those terms.

(e) The Office of Tourism, Trade, and Economic Development shall deny the application of an amateur sports business to be a certified sports industry economic development project if the office determines that the proposed project does not meet the established criteria for approval.

(f) The Office of Tourism, Trade, and Economic Development shall develop a standardized form for an amateur sports business to complete in applying for certification as a certified sports industry economic development project. The application shall include, but shall not be limited to, relevant information on employment and job creation, proposed budgets, contracts for multiyear events and projects, project financing, and other information requested by the office. The application may be distributed to applicants by the Office of Tourism, Trade, and Economic Development, and all completed applications shall be processed by the office.

(g) Initial certification for a sales tax reimbursement under this section is valid for 120 months. Subsequent to the initial certification period, the certified sports industry economic development project is eligible for two periods of recertification, each of which is valid for 60 months. A project shall request recertification 12 months before the expiration of the certificate.

(h) A certified sports industry economic development project may request recertification after the initial certification period to be requalified for certification as a certified sports industry economic development project for a period not to exceed 240 months.

(i) The Office of Tourism, Trade, and Economic Development shall recertify, before the end of the first 10-year period, that the certified sports industry economic development project is operational and that the project is meeting the minimum projections for sales tax revenues as required at the time of original certification. If the project is not recertified during this 10-year review period as meeting the minimum projections, funding shall be adjusted until certification criteria are met. If the project fails to generate annual sales tax revenues pursuant to its sales tax reimbursement agreement with the Office of Tourism, Trade, and Economic Development, the amount of revenues distributed to the project under s. 212.20(6)(e)7.e. shall be reduced to the amount of the taxes collected times 50 percent. If, for 2 consecutive years, the amount of tax revenues collected falls below a minimum of $1 million per year, the project may be decertified at the discretion of the Office of Tourism, Trade, and Economic Development. Such a reduction shall remain in effect until the sales tax revenues generated by the project in a 12-month period equal or exceed $1 million.

(j) A project may be decertified if the Office of Tourism, Trade, and Economic Development determines that the amateur sports business can no longer maintain its economic development activities in this state. If the project is no longer in existence, or is no longer viable, as determined by the project's sales tax reimbursement agreement with the Office of Tourism, Trade, and Economic Development, or if the project has the certificate for purposes other than those authorized by this section and chapter 212, the Office of Tourism, Trade, and Economic Development shall notify the Department of Revenue to suspend payment for a period of 6 months until the project is either in compliance with the sales tax reimbursement agreement or is determined to be in default. In addition to other penalties imposed by law, any person who knowingly and willfully falsifies an application for purposes other than those authorized by this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(k) The Office of Tourism, Trade, and Economic Development shall provide written notification to the Department of Revenue of all certifications, recertifications, and decertifications of projects and of the sales tax reimbursement distribution amount each project is entitled to receive.

(l) The Office of Tourism, Trade, and Economic Development shall develop rules for the receipt and processing of applications for funding pursuant to s. 212.20.

(7) SALES TAX REIMBURSEMENT AGREEMENT TERMS.—

(a) In order to qualify for sales tax reimbursement from the state, each certified sports industry economic development project shall enter into a written agreement with the Office of Tourism, Trade, and Economic Development which specifies, at a minimum:

1. The total number of full-time-equivalent jobs created in or transferred to this state as a direct result of the project, the average wage paid for those jobs, the criteria that will apply to measuring the achievement of these terms during the effective period of the agreement, and a time schedule or plan for when such jobs will be in place and operative in the state.

2. The maximum amount of new sales taxes estimated to be generated as a result of the project, the maximum amount of sales tax reimbursement that the project is eligible to receive, and the maximum amount of sales tax reimbursement that the project is requesting.

3. The budgets, financing, projections, and cost estimates for the sports activities and projects for which reimbursement is sought.

(b) Compliance with the terms and conditions of the sales tax reimbursement agreement is a condition precedent for receiving a sales tax reimbursement each year. The terms and timeframe of the agreement shall be commensurate with the duration of the certification period. Failure to comply with the terms and conditions of the sales tax reimbursement agreement shall result in an immediate review by the Office of Tourism, Trade, and Economic Development of the activities of the project.

(c) The sales tax reimbursement shall not exceed 50 percent of the total project costs, amortized over a period not to exceed 20 years.

(d) Sales tax reimbursement may be provided through direct payment or other means of payment to the certified sports industry economic development project, as determined in the sales tax reimbursement agreement with the approval of the Department of Revenue.

(8) ADMINISTRATION.—

(a) The Office of Tourism, Trade, and Economic Development may verify information provided in any claim for sales tax reimbursement under this section, including information regarding employment and wage levels or the payment of taxes under chapter 212 to the appropriate agency, including the Department of Revenue, the Agency for Workforce Innovation, or the appropriate local government or authority.

(b) To facilitate the process of monitoring and auditing applications made under this program, the Office of Tourism, Trade, and Economic Development may request information necessary for determining a project's compliance with this section from the Department of Revenue, the Agency for Workforce Innovation, or any local government or authority. These governmental entities shall provide assistance in the areas within their scope of responsibilities.

(c) The Department of Revenue may audit as provided in s. 213.34 to verify that the distributions pursuant to this section have been expended as required in this section.

(9) RELATIONSHIP OF SALES TAX REIMBURSEMENTS TO SPORTS INDUSTRY GROWTH; REPORT TO THE LEGISLATURE.— Beginning January 1, 2003, the Office of Tourism, Trade, and Economic Development shall maintain records based on information provided on taxpayer applications for certified sports industry economic development projects that receive sales tax reimbursements. These records shall include a statement of the percentage of the overall new economic impact generated by certified sports industry economic development projects and the amount of funds annually reimbursed to such projects. In addition, the Office of Tourism, Trade, and Economic Development shall maintain data showing the annual growth in Florida-based amateur sports industry businesses and the number of persons employed and wages paid by such businesses. The Office of Tourism, Trade, and Economic Development shall report this information to the Legislature annually, no later than December 1.

Section 5. Subsection (1) of section 288.1229, Florida Statutes, is amended to read:

288.1229 Promotion and development of sports-related industries and amateur athletics; direct-support organization; powers and duties.—

(1) The Office of Tourism, Trade, and Economic Development may authorize a direct-support organization to assist the office in:

(a) The promotion and development of the sports industry and related industries for the purpose of improving the economic presence of these industries in Florida.

(b) The promotion of amateur athletic participation for the citizens of Florida and the promotion of Florida as a host for national and international amateur athletic competitions for the purpose of encouraging and increasing the direct and ancillary economic benefits of amateur athletic events and competitions.

(c) The attraction of amateur sports industry economic development projects to this state for the purposes set forth in paragraphs (a) and (b), as well as for the purposes of increasing national and international media promotions and attention, promoting the quality of life in the state, and promoting tourism, which will have a positive effect on expanding the tax base as well as creating new jobs in the state.

And the title is amended as follows:

On page 1, line 2,

after the semicolon insert: amending s. 212.20, F.S.; providing for the Department of Revenue to distribute sales tax reimbursements to certified sports industry economic development projects under certain circumstances; amending s. 213.053, F.S.; extending the current

information sharing with the Office of Tourism, Trade, and Economic Development to include the sales tax reimbursement program for certified sports industry economic development projects; creating s. 288.113, F.S.; creating a tax reimbursement program for certified sports industry economic development projects; providing legislative findings and declarations; providing definitions; providing eligibility criteria for amateur sports businesses; prescribing the terms and amounts of tax reimbursements; providing a certification procedure, to be established and administered by the Office of Tourism, Trade, and Economic Development; providing for periodic recertification; abating or reducing funding in specified circumstances; providing a maximum number of years for which an amateur sports business may be certified; providing for decertification; providing a penalty for falsifying an application; providing for a tax reimbursement agreement and prescribing terms of the agreement; providing for annual claims for reimbursement; providing duties of the Department of Revenue; providing for administration of the program; providing for recordkeeping and submission of an annual report to the Legislature; amending s. 288.1229, F.S.; providing an additional purpose for which the Office of Tourism, Trade, and Economic Development may authorize a direct-support organization to assist the office; providing for the creation of new jobs in this state;

Rep. Johnson moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Pickens offered the following:

(Amendment Bar Code: 665733)

Amendment 4—On page 61, line 2,
remove from the bill: *using*

and insert in lieu thereof: *marketing*

Rep. Pickens moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Jordan offered the following:

(Amendment Bar Code: 174881)

Amendment 5 (with title amendment)—On page 86, between lines 8 and 9, of the bill

insert:

Section 35. Section 446.609, Florida Statutes, is amended to read:

446.609 Jobs for Florida's Graduates Act.—

(1) SHORT TITLE.—This section may be cited as the "Jobs for Florida's Graduates Act."

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

(a) "Board" means the board of directors of the Florida Endowment Foundation for Florida's Graduates.

(b) "Department" means the Department of Education.

(c) "Endowment fund" means an account established within the Florida Endowment Foundation for Florida's Graduates to provide a continuing and growing source of revenue for school-to-work transition efforts.

(d) "Foundation" means the Florida Endowment Foundation for Florida's Graduates.

(e) "Operating account" means an account established under paragraph *(7)*~~(8)~~(h) to carry out the purposes of this section.

(3) LEGISLATIVE INTENT.—The Legislature recognizes that it is in the best interest of the citizens of this state that the state have a well-educated and skilled workforce to be competitive in a changing economy. It is the intent of the Legislature to meet the challenge of ensuring a skilled workforce by creating a formal program to facilitate the important school-to-work transition and to provide additional funding to achieve this goal. Accordingly, the Legislature finds and declares that:

(a) The purpose of this section is to broaden the participation and funding potential for further significant support for Florida students who are approaching the transition from school to work.

(b) It is appropriate to encourage individual and corporate support and involvement, as well as state support and involvement, to promote employment opportunities for Florida's students.

(4) PROGRAM.—There is hereby created~~, for an initial 5-year period,~~ a school-to-work program to be known as Jobs for Florida's Graduates which shall, ~~during the initial 5-year phase set forth in this section and~~ except as otherwise provided by law or by rule of the Department of Education, be operated in accordance with the process and outcome standards of Jobs for America's Graduates, Inc. To that end, the board shall enter into a sponsoring agreement with Jobs for America's Graduates, Inc., to carry out the Jobs for America's Graduates model within the state.

(a) ~~During the first year of operation, the Jobs for Florida's Graduates Program shall be operated in not less than 25 nor more than 50 high schools in the state to be chosen by the board.~~ The goal *of the program* shall be to have a minimum of 300 high schools participating in the program ~~by the end of the 2001-2002 school year~~.

(b) The schools chosen by the board to participate in the program must represent a demographically balanced sample population, include both urban and rural schools, and be comprised of schools*, including charter schools,* in all geographic areas of the state. Each school selected to participate shall enter into a formal written agreement with the board which, at a minimum, details the responsibilities of each party and the process and outcome goals of the ~~initial 5-year~~ Jobs for Florida's Graduates Program.

(c) Students shall be selected and approved for participation in the program by the educational institutions in which they are enrolled, and such selection and approval shall be based on their being classified as ~~12th grade~~ at-risk students *pursuant to the Jobs for America's Graduates model*.

~~(5) REVENUE FOR THE ENDOWMENT FUND.—~~

~~(a) An endowment fund is created as a long-term, stable, growing source of revenue to be administered by the foundation in accordance with rules promulgated by the department.~~

~~(b) The principal of the endowment fund shall consist of legislative appropriations that are made to the endowment fund and bequests, gifts, grants, and donations as may be solicited from public or private sources by the foundation.~~

~~(c) The State Board of Administration shall invest and reinvest moneys of the endowment fund principal in accordance with the provisions of ss. 215.44-215.53. Interest and investment income earned on the endowment fund principal shall be annually transmitted to the foundation, based upon a fiscal year which runs from July 1 through June 30, and shall be deposited in the foundation's operating account for distribution as provided in this section.~~

(5)~~(6)~~ THE FLORIDA ENDOWMENT FOUNDATION FOR FLORIDA'S GRADUATES.—

(a) The Florida Endowment Foundation for Florida's Graduates is created ~~as a direct-support organization of the Department of Education~~ to encourage public and private support to enhance school-to-work transition~~. As a direct-support organization, the foundation shall operate under contract with the department~~ and shall be:

1. A Florida corporation not for profit which is incorporated under the provisions of chapter 617 and approved by the Department of State.

2. Organized and operated exclusively to do the following: raise funds; submit requests and receive grants from the Federal Government, the state, private foundations, and individuals; receive, hold, and administer property; and make expenditures to or for the benefit of school-to-work transition programs approved by the board of directors of the foundation.

(b) ~~As a direct-support organization,~~ The foundation shall:

1. Develop articles of incorporation.

2. Create a board of directors appointed by the Commissioner of Education.

3. Perform an annual financial and performance review to determine if the foundation is operating in a manner consistent with the goals of the Legislature in providing assistance for school-to-work transitions.

4. Provide a mechanism for the reversion to the state of moneys in the foundation and in any other funds and accounts held in trust by the foundation if the foundation is dissolved.

(6)~~(7)~~ BOARD OF DIRECTORS.—The foundation shall be administered by a board of directors, as follows:

(a) The board shall consist of *at least* 15 members *a majority of which shall*~~. At least 9 of the 15 members must~~ be from the private sector~~, and the remaining members may be from the public sector~~. ~~Among the public sector members, representation shall come from secondary education, vocational education, and job-training programs such as Job Education Partnership.~~ The chair *shall* ~~may~~ be from ~~either~~ the private sector ~~or the public sector~~.

(b) All members shall have an interest in school-to-work transition and, insofar as is practicable, shall:

1. Have skills in foundation work or other fundraising activities, financial consulting, or investment banking or other related experience; or

2. Have experience in policymaking or senior management level positions or have distinguished themselves in the fields of education, business, or industry.

(c) *Initially,* the chair and all board members shall be appointed by the Commissioner of Education. *Effective July 1, 2001, all reappointments shall be made by a membership committee comprised of current board members.*

1. The chair shall be appointed for a term of 2 years and may be reappointed. However, no chair may serve more than 6 consecutive years.

2. Board members shall serve for 3-year terms or until resignation or removal for cause, except that members appointed to serve initial terms shall be appointed for staggered terms of 1, 2, and 3 years, respectively.

(d) In the event of a vacancy on the board caused by an occurrence other than the expiration of a term, a new member shall be appointed.

(e) Each member is accountable to the Commissioner of Education for the proper performance of the duties of office. The commissioner may remove any member from office for malfeasance, misfeasance, neglect of duty, incompetence, or permanent inability to perform official duties or for pleading nolo contendere to, or being found guilty of, a crime.

(7)~~(8)~~ ORGANIZATION, POWERS, AND DUTIES.—Within the limits prescribed in this section or by rule of the department:

(a) Upon appointment, the board shall meet and organize. Thereafter, the board shall hold such meetings as are necessary to implement the provisions of this section and shall conduct its business in accordance with rules promulgated by the department.

(b) The board may solicit and receive bequests, gifts, grants, donations, goods, and services. When gifts are restricted as to purpose, they may be used only for the purpose or purposes stated by the donor.

(c) The board may enter into contracts with the Federal Government, state or local agencies, private entities, or individuals to carry out the purposes of this section.

(d) The board may identify, initiate, and fund Jobs for Florida's Graduates programs to carry out the purposes of this section.

(e) The board may make gifts or grants:

1. To the state, or any political subdivision thereof, or any public agency of state or local government.

2. To a corporation, trust, association, or foundation organized and operated exclusively for charitable, educational, or scientific purposes.

3. To the department for purposes of program recognition and marketing, public relations and education, professional development, and technical assistance and workshops for grant applicants and recipients and the business community.

(f) The board may advertise and solicit applications for funding and shall evaluate applications and program proposals submitted thereto.

(g) The board shall monitor, review, and annually evaluate funded programs to determine whether funding should be continued, terminated, reduced, or increased.

(h) The board shall establish an operating account for the deposit of funds to be used in carrying out the purposes of this section.

(i) The board shall operate the Jobs for Florida's Graduates Program in such a way, and shall recommend to the Department of Education the adoption of such rules as may be necessary, to ensure that the following outcome goals are met:

1. In year 1:

a. The statewide graduation rates, or GED test completion rates, of participants in the Jobs for Florida's Graduates Program shall be at least 82 percent by *June 30* ~~March 31~~ of the year following the end of the academic year in which the participants' respective high school classes graduated.

b. By *June 30* ~~March 31~~ of the year following the end of the academic year in which the participants' respective high school classes graduated, 70 to 75 percent of *graduated working* participants in the Jobs for Florida's Graduates Program shall be employed *full time* ~~a minimum of 40 hours per week~~ in the civilian sector or the military or enrolled in postsecondary training education, or any combination of these that together are equivalent to *full time* ~~40 hours per week~~.

c. By *June 30* ~~March 31~~ of the year following the end of the academic year in which the participants' respective high school classes graduated, the average wage of *graduated* participants in the Jobs for Florida's Graduates Program who are working shall be at or above the national average wage for all participants in programs affiliated with Jobs for America's Graduates, Inc.

2. In year 2:

a. The statewide graduation rates, or GED test completion rates, of participants in the Jobs for Florida's Graduates Program shall be at least 85 percent by *June 30* ~~March 31~~ of the year following the end of the academic year in which the participants' respective high school classes graduated.

b. By *June 30* ~~March 31~~ of the year following the end of the academic year in which the participants' respective high school classes graduated, 75 to 78 percent of *graduated working* participants in the Jobs for Florida's Graduates Program shall be employed *full time* ~~a minimum of 40 hours per week~~ in the civilian sector or the military or enrolled in postsecondary training education, or any combination of these that together are equivalent to *full time* ~~40 hours per week~~.

c. By *June 30* ~~March 31~~ of the year following the end of the academic year in which the participants' respective high school classes graduated, the average wage of *graduated* participants in the Jobs for Florida's Graduates Program who are working shall be at or above the national average wage for all participants in programs affiliated with Jobs for America's Graduates, Inc.

3. In years 3 through 5:

a. The statewide graduation rates, or GED test completion rates, of participants in the Jobs for Florida's Graduates Program shall be at least 90 percent by *June 30* ~~March 31~~ of the year following the end of the

academic year in which the participants' respective high school classes graduated.

b. By *June 30* ~~March 31~~ of the year following the end of the academic year in which the participants' respective high school classes graduated, 80 percent of *graduated working* participants in the Jobs for Florida's Graduates Program shall be employed *full time* ~~a minimum of 40 hours per week~~ in the civilian sector or the military or enrolled in postsecondary training education, or any combination of these that together are equivalent to *full time* ~~40 hours per week~~.

c. By *June 30* ~~March 31~~ of the year following the end of the academic year in which the participants' respective high school classes graduated, the average wage of *graduated* participants in the Jobs for Florida's Graduates Program who are working shall be at or above the national average wage for all participants in programs affiliated with Jobs for America's Graduates, Inc.

(j) The board may take such additional actions, including independently organizing and conducting hiring practices, as are deemed necessary and appropriate to administer the provisions of this section. To the maximum extent possible, the board shall hire Jobs for Florida's Graduates Program staff who operate in selected schools to fill necessary staff positions and shall provide for salary, benefits, discipline, evaluation, or discharge according to a contractual agreement. These positions shall not be state employee positions.

~~(9) DISTRIBUTION OF EARNINGS ON ENDOWMENT FUND PRINCIPAL.—The board shall use the moneys in the operating account, by whatever means, to provide for:~~

~~(a) Planning, research, and policy development for issues related to school-to-work transition and publications and dissemination of such information as may serve the objectives of this section.~~

~~(b) Promotion of initiatives for school-to-work transition.~~

~~(c) Funding of programs which engage in, contract for, foster, finance, or aid in job training and counseling for school-to-work transition research, education, or demonstration, or other related activities.~~

~~(d) Funding of programs which engage in, contract for, foster, finance, or aid in activities designed to advance better public understanding and appreciation of the school-to-work transition.~~

~~(10) STARTUP FUNDING.—Notwithstanding any provision of this section to the contrary, in order to provide for first-year startup funds, 50 percent of the money allocated during the 12-month period beginning July 1, 1998, shall not be available for investment by the State Board of Administration, but shall be transmitted quarterly to the foundation board and shall be available to the foundation for the purposes set forth in this section.~~

(8)~~(11)~~ ACCREDITATION.—~~During the initial 5-year period,~~ The board shall request and contract with the national accreditation process of Jobs for America's Graduates, Inc., to ensure the viability and efficacy of the individual school-based Jobs for Florida's Graduates programs in the state.

(9)~~(12)~~ ANNUAL AUDIT.—The board shall cause an annual audit of the foundation's financial accounts to be conducted by an independent certified public accountant in accordance with rules adopted by the department. The annual audit report shall be submitted to the Auditor General and the department for review. The Auditor General and the department may require and receive from the foundation, or from its independent auditor, any relevant detail or supplemental data.

(10)~~(13)~~ ASSESSMENT OF PROGRAM RESULTS.—The success of the Jobs for Florida's Graduates Program shall be assessed as follows:

(a) No later than November 1 of each year of the Jobs for Florida's Graduates Program, Jobs for America's Graduates, Inc., shall conduct and deliver to the Office of Program Policy Analysis and Government Accountability a full review and report of the program's activities. The Office of Program Policy Analysis and Government Accountability shall audit and review the report and deliver the report, along with its analysis and any recommendations for expansion, curtailment, modification, or continuation, to the board not later than December 31 of the same year.

(b) Beginning in the first year of the Jobs for Florida's Graduates Program, the Division of Economic and Demographic Research of the Joint Legislative Management Committee shall undertake, during the initial phase, an ongoing longitudinal study of participants to determine the overall efficacy of the program. The division shall transmit its findings each year to the Office of Program Policy Analysis and Government Accountability for inclusion in the report provided for in paragraph (a).

(11)~~(14)~~ ANNUAL REPORT.—The board shall issue a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Commissioner of Education by March 1, 2000, and each year thereafter, summarizing ~~the performance of the endowment fund for the previous fiscal year and~~ the foundation's fundraising activities and performance and detailing those activities and programs supported ~~by the earnings on the endowment principal or~~ by bequests, gifts, grants, donations, and other valued goods and services received.

(12)~~(15)~~ RULES.—The department shall *adopt* ~~promulgate~~ rules *to implement* ~~for the implementation of~~ this section.

Section 36. *The State Board of Administration shall transfer all principal and interest in the endowment fund, as defined in s. 446.609, Florida Statutes, to the Board of Directors of the Florida Endowment Foundation for Florida's Graduates to be used for the Jobs for Florida's Graduates Program as provided by law.*

Section 37. *Section 3 of chapter 98-218, Laws of Florida, is repealed.*

And the title is amended as follows:

On page 5, line 2,

after the semicolon insert: amending s. 446.609, F.S.; deleting a time-period limitation for the "Jobs for Florida's Graduates" school-to-work program; deleting provisions relating to an endowment fund; revising certain provisions relating to the members of the board of directors of the Florida Endowment Foundation for Florida Graduates; revising criteria for certain outcome goals; deleting provisions relating to distribution of earnings on the endowment fund; deleting provisions relating to startup funding; revising annual report requirements; requiring the State Board of Administration to transfer all principal and interest in the endowment fund to the foundation's board of directors for certain purposes; repealing s. 3, ch. 98-218, Laws of Florida, relating to a temporary pilot apprenticeship program;

Rep. Jordan moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Melvin offered the following:

(Amendment Bar Code: 384485)

Amendment 6 (with title amendment)—On page 86, between lines 8 and 9, of the bill

insert:

Section 35. *No county, municipality, or any other political subdivision of the state may, whether by ordinance, resolution, referendum, initiative, or as a condition of bidding or contracting, or by any other means, require a private employer to pay any employee a minimum wage higher than that required by federal law. If it is determined by the officer or agency responsible or distributing federal funds to the state, or any political subdivision, agency, or instrumentality of the state, that compliance with this section will cause denial of these federal funds or would otherwise be inconsistent with the federal requirements pertaining to such funds, this section shall not apply, but only to the extent necessary to prevent denial of the federal funds or to eliminate the inconsistency with federal requirements.*

And the title is amended as follows:

On page 5, line 2,

after the semicolon insert: prohibiting local governments from establishing a local minimum wage; providing exceptions;

Rep. Melvin moved the adoption of the amendment.

THE SPEAKER IN THE CHAIR

Point of Order

Rep. Kosmas raised a point of order, under Rule 12.9, that the amendment was not germane.

Subsequently, Rep. Melvin withdrew **Amendment 6**.

Subsequently, Rep. Kosmas withdrew the point of order.

Representative(s) Joyner offered the following:

(Amendment Bar Code: 495211)

Amendment 7 (with title amendment)—On page 86, between lines 8 and 9

insert: *(1) This section shall be cited as the Moses General Miles Act. For the purpose of establishing a long-term residential care continuum of assisted living facilities for low-income elderly living in urban distressed communities, and as an additional source for community economic development opportunities in specific targeted areas, the Institute on Urban Policy and Commerce at Florida Agricultural and Mechanical University is authorized to develop a grant program to fund five pilot projects to be located in 5 of the 10 urban distressed communities of Pensacola, Tallahassee, Jacksonville, Daytona Beach, Orlando, Tampa, St. Petersburg, West Palm Beach, Ft. Lauderdale, and Miami-Dade. The funding for the five pilot projects shall be provided to not-for-profit community and faith-based organizations located in urban distressed communities. Each organization seeking funding shall submit to a review panel a strategic plan that outlines the need for and the location of assisted living facilities for low-income elderly in the urban distressed communities. The plan should incorporate public-private partnerships that will be used for the development and construction of the assisted living facilities in the urban distressed communities. To be eligible for funding under this program, a not-for-profit community and faith-based organization must hold a current exemption from federal taxation under s. 501(c)(3) or (4) of the Internal Revenue Code. The institute shall develop criteria for the review of the plans. The institute shall give priority consideration for funding under this program to plans submitted by neighborhood-based organizations that have as a principal part of their missions the improvement of conditions for residents of the neighborhoods in which the organizations are located. The institute shall develop weighted criteria to be used in evaluating applications from the community and faith-based organizations.*

(2) A review panel is created within the institute to evaluate proposals for award of funding for the five pilot projects. The review panel shall consist of seven members appointed by the President of Florida Agricultural and Mechanical University, as follows:

(a) One member who is affiliated with the Agency for Health Care Administration.

(b) The Secretary of Health, or the secretary's designee.

(c) The Secretary of the Department of Elderly Affairs, or the secretary's designee.

(d) The president of Enterprise Florida, Inc., or the president's designee.

(e) One member who is from a private-sector investment institution or organization.

(f) One member who is affiliated with the Office of Tourism, Trade, and Economic Development.

(g) One member who is from a professional trade organization representing long-term-care assisted living facilities.

(h) One member who is affiliated with Workforce Florida, Inc.

The director of the institute, or a designee, shall serve as secretary to the review panel without voting rights.

(3) The institute has the authority to adopt rules to implement the provisions of his section. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 5, line 2 after the ";"

and insert in lieu thereof: creating the "Moses General Miles Act"; authorizing the Institute on Urban Policy and Commerce at Florida Agricultural and Mechanical University to develop a grant program for pilot projects in assisted living facility long-term care for elderly persons in urban distressed communities; providing for eligibility; creating a review panel to evaluate proposed pilot projects; providing membership of the review panel; directing the institute to provide program technical assistance support; providing rulemaking authority;

Rep. Joyner moved the adoption of the amendment.

On motion by Rep. Joyner, further consideration of **Amendment 7** was temporarily postponed under Rule 11.10.

Representative(s) Alexander offered the following:

(Amendment Bar Code: 695891)

Amendment 8 (with title amendment)—On page 86, between lines 8 and 9, of the bill

insert: Section 35. *The Florida Department of Citrus or its successor may collect dues, contributions, or any other financial payment upon request by, and on behalf of, any not-for-profit corporation and its related not-for-profit corporations. Such not-for-profit corporation must be engaged, to the exclusion of agricultural commodities other than citrus, in market news and grower education solely for citrus growers, and must have at least 5,000 members who are engaged in growing citrus in this state for commercial sale.*

And the title is amended as follows:

On page 5, line 2,

after the semicolon, insert: authorizing the Department of Citrus or its successor to collect dues or other payments on behalf of certain not-for-profit corporations and their related not-for-profit corporations;

Rep. Alexander moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the adoption of **Amendment 7**, which was withdrawn.

The question recurred on the passage of HB 1225. The vote was:

Session Vote Sequence: 304

Yeas—106

The Chair	Brown	Frankel	Jordan
Alexander	Brummer	Gannon	Joyner
Allen	Bucher	Garcia	Justice
Andrews	Bullard	Gardiner	Kallinger
Arza	Byrd	Gelber	Kendrick
Attkisson	Cantens	Gibson	Kilmer
Atwater	Carassas	Goodlette	Kosmas
Ausley	Clarke	Gottlieb	Kottkamp
Ball	Davis	Green	Kravitz
Baxley	Detert	Greenstein	Lacasa
Bean	Diaz de la Portilla	Harper	Lee
Bendross-Mindingall	Diaz-Balart	Harrington	Lerner
Bense	Dockery	Henriquez	Littlefield
Benson	Farkas	Heyman	Lynn
Berfield	Fasano	Hogan	Machek
Betancourt	Fields	Holloway	Mahon
Bilirakis	Fiorentino	Jennings	Mayfield
Bowen	Flanagan	Johnson	Maygarden

McGriff	Peterman	Russell	Stansel
Meadows	Pickens	Ryan	Trovillion
Mealor	Prieguez	Seiler	Waters
Melvin	Rich	Simmons	Weissman
Miller	Richardson	Siplin	Wiles
Murman	Ritter	Slosberg	Wilson
Needelman	Romeo	Smith	Wishner
Negron	Ross	Sorensen	
Paul	Rubio	Spratt	

Nays—10

Baker	Cusack	Kyle	Sobel
Barreiro	Haridopolos	Mack	Wallace
Bennett	Hart		

Votes after roll call:
Yeas—Brutus, Harrell

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

Disclosure of Interest

I own property in the enterprise zone proposed in another bill—potential conflict. I will vote on HB 1225.

Rep. Michael S. Bennett
District 67

HB 1055 was taken up. On motion by Rep. Needelman, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed SB 770, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By Senator Crist—

SB 770—A bill to be entitled An act relating to workers' compensation; amending s. 440.092, F.S.; characterizing certain activities of certain officers as arising out of and in the course of employment for compensability purposes; providing a declaration of important state interest; providing an effective date.

—was taken up, read the first time by title, and substituted for HB 1055. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Needelman, the rules were waived and SB 770 was read the second time by title and the third time by title. On passage, the vote was:

Session Vote Sequence: 305

Yeas—116

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

Nays—None

Votes after roll call:
Yeas—Brutus, Davis

So the bill passed and was immediately certified to the Senate.

Continuation of Bills and Joint Resolutions on Third Reading

SB 428—A bill to be entitled An act relating to building construction; amending s. 95.11, F.S.; providing alternative applications to a statute of limitations for certain legal or equitable actions for actions to enforce claims against payment bonds; revising a statute of limitations for actions to enforce claims against certain payment bonds; amending s. 255.05, F.S.; clarifying criteria for performance of bonds; revising a provision relating to notice of nonpayment for certain labor, materials, or supplies; amending s. 713.01, F.S.; revising certain definitions; amending s. 713.02, F.S.; clarifying a criterion for a proscription against certain liens; amending s. 713.13, F.S.; deleting authorization for certain fax numbers in notices of commencement; amending s. 713.18, F.S.; revising provisions relating to manner of serving notices and certain instruments; amending s. 713.23, F.S.; including certain unpaid finance charges under a written notice of nonpayment of a payment bond; amending s. 713.245, F.S.; providing additional bond criteria for coextension of a surety's duty to pay lienors with a contractor's duty to pay; amending ss. 725.06, 725.08, F.S.; revising indemnification and hold harmless requirements for construction contracts and design professional contracts; repealing s. 713.18(3), F.S., relating to service of certain notices by facsimile transmission; providing effective dates. amending s. 489.13, F.S.; providing for issuance of a notice of noncompliance, imposition of an administrative fine, and assessment of reasonable investigative and legal costs of prosecution for unlicensed contracting; specifying that such remedies are not exclusive; providing for uses of fine proceeds; requiring the Department of Business and Professional Regulation to create a web page on its Internet website dedicated to listing known information concerning unlicensed contractors; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 306

Yeas—110

The Chair	Benson	Diaz-Balart	Harper
Alexander	Berfield	Dockery	Harrell
Allen	Betancourt	Farkas	Harrington
Andrews	Bilirakis	Fields	Hart
Argenziano	Bowen	Fiorentino	Henriquez
Arza	Brown	Flanagan	Heyman
Attkisson	Brummer	Frankel	Hogan
Atwater	Bucher	Gannon	Holloway
Ausley	Bullard	Garcia	Jennings
Baker	Byrd	Gardiner	Johnson
Ball	Cantens	Gelber	Jordan
Barreiro	Clarke	Gibson	Joyner
Baxley	Cusack	Goodlette	Justice
Bean	Davis	Gottlieb	Kallinger
Bendross-Mindingall	Detert	Green	Kendrick
Bense	Diaz de la Portilla	Greenstein	Kilmer

Kravitz	Meadows	Richardson	Sobel
Kyle	Mealor	Ritter	Spratt
Lacasa	Melvin	Romeo	Stansel
Lee	Miller	Ross	Trovillion
Lerner	Murman	Rubio	Wallace
Littlefield	Needelman	Russell	Waters
Lynn	Negron	Ryan	Weissman
Machek	Paul	Seiler	Wiles
Mack	Peterman	Simmons	Wilson
Mahon	Pickens	Siplin	Wishner
Mayfield	Prieguez	Slosberg	
McGriff	Rich	Smith	

Nays—None

Votes after roll call:
Yeas—Brutus, Carassas, Kottkamp

So the bill passed, as amended, and was immediately certified to the Senate.

CS/HB 199—A bill to be entitled An act relating to substance abuse treatment programs; providing goals for treatment-based drug courts; requiring judicial circuits to establish a model of treatment-based drug courts for certain purposes; providing criteria; providing legislative intent; providing certain principles for operating drug courts; providing for inclusion of certain programs in such courts; amending s. 910.035, F.S.; providing for transferring persons eligible for participation in drug court treatment programs to other jurisdictions under certain circumstances; providing criteria, requirements, and limitations; amending s. 948.08, F.S.; adding persons charged with specified crimes to the list of persons eligible for admission into a pretrial substance abuse program; creating s. 948.16, F.S.; providing for a misdemeanor pretrial substance abuse education and treatment intervention program; providing for admitting certain persons to the program under certain circumstances; providing for disposition of persons in the program; providing criteria; providing contracting requirements for entities providing such a program; providing an effective date.

—was read the third time by title.

Representative(s) Trovillion offered the following:

(Amendment Bar Code: 942427)

Amendment 3 (with title amendment)—On page 2, line 1, through page 5, line 20,
remove from the bill: all of said lines,

and insert in lieu thereof:

Section 1. *(1) It is the intent of the Legislature to implement treatment-based drug court programs in each judicial circuit in an effort to reduce crime and recidivism, abuse and neglect cases, and family dysfunction by breaking the cycle of addiction which is the most predominant cause of cases entering the justice system. The Legislature recognizes that the integration of judicial supervision, treatment, accountability, and sanctions greatly increases the effectiveness of substance abuse treatment. The Legislature also seeks to ensure that there is a coordinated, integrated, and multidisciplinary response to the substance abuse problem in this state, with special attention given to creating partnerships between the public and private sectors and to the coordinated, supported, and integrated delivery of multiple-system services for substance abusers, including a multiagency team approach to service delivery.*

(2) Each judicial circuit shall establish a model of a treatment-based drug court program under which persons in the justice system assessed with a substance abuse problem will be processed in such a manner as to appropriately address the severity of the identified substance abuse problem through treatment plans tailored to the individual needs of the participant. These treatment-based drug court program models may be established in the misdemeanor, felony, family, delinquency, and dependency divisions of the judicial circuits. It is the intent of the Legislature to encourage the Department of Corrections, the Department of Children and Family Services, the Department of Juvenile Justice, the Department of Health, the Department of Law Enforcement, and such other agencies, local governments, law enforcement agencies, and other interested public or private sources to support the creation and establishment of these problem-solving court programs. Participation in the treatment-based drug court programs does not divest any public or private agency of its responsibility for a child or adult, but allows these agencies to better meet their needs through shared responsibility and resources.

(3) The treatment-based drug court programs shall include therapeutic jurisprudence principles and adhere to the following 10 key components, recognized by the Drug Courts Program Office of the Office of Justice Programs of the United States Department of Justice and adopted by the Florida Supreme Court Treatment-Based Drug Court Steering Committee:

(a) Drug court programs integrate alcohol and other drug treatment services with justice system case processing.

(b) Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.

(c) Eligible participants are identified early and promptly placed in the drug court program.

(d) Drug court programs provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.

(e) Abstinence is monitored by frequent testing for alcohol and other drugs.

(f) A coordinated strategy governs drug court program responses to participants' compliance.

(g) Ongoing judicial interaction with each drug court program participant is essential.

(h) Monitoring and evaluation measure the achievement of program goals and gauge program effectiveness.

(i) Continuing interdisciplinary education promotes effective drug court program planning, implementation, and operations.

(j) Forging partnerships among drug court programs, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

(4) Treatment-based drug court programs may include pretrial intervention programs as provided in ss. 948.08, 948.16, and 985.306, Florida Statutes.

(5)(a) The Florida Association of Drug Court Program Professionals is created. The membership of the association may consist of drug court program practitioners who comprise the multidisciplinary drug court program team, including, but not limited to, judges, state attorneys, defense counsel, drug court program coordinators, probation officers, law enforcement officers, members of the academic community, and treatment professionals. Membership in the association shall be voluntary.

(b) The association shall annually elect a chair whose duty is to solicit recommendations from members on issues relating to the expansion, operation, and institutionalization of drug court programs. The chair is responsible for providing the association's recommendations to the Supreme Court Treatment-Based Drug Court Steering Committee, and shall submit a report each year, on or before October 1, to the steering committee.

Section 2. Subsection (5) is added to section 910.035, Florida Statutes, to read:

910.035 Transfer from county for plea and sentence.—

(5) Any person eligible for participation in a drug court treatment program pursuant to s. 948.08(6) may be eligible to have the case transferred to a county other than that in which the charge arose if the drug court program agrees and if the following conditions are met:

(a) The authorized representative of the drug court program of the county requesting to transfer the case shall consult with the authorized representative of the drug court program in the county to which transfer is desired.

(b) If approval for transfer is received from all parties, the trial court shall enter a transfer order directing the clerk to transfer the case to the county which has accepted the defendant into its drug court program.

(c) The transfer order shall include a copy of the probable cause affidavit, any charging documents in the case, all reports, witness statements, test results, evidence lists, and other documents in the case, the defendant's mailing address and phone number, and the defendant's written consent to abide by the rules and procedures of the receiving county's drug court program.

(d) After the transfer takes place, the clerk shall set the matter for a hearing before the drug court program judge and the court shall ensure the defendant's entry into the drug court program.

And the title is amended as follows:

On page 1, lines 4-10,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: drug court programs; requiring judicial circuits to establish a model of treatment-based drug court programs for certain purposes; providing criteria; providing legislative intent; providing certain principles for operating drug court programs; providing for inclusion of certain programs in such drug court programs; amending s. 910.035,

Rep. Trovillion moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/HB 199. The vote was:

Session Vote Sequence: 307

Yeas—117

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

Nays—None

Votes after roll call:
Yeas—Attkisson

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

CS/HB 73 was taken up. On motion by Rep. Wallace, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for CS for SB 710 and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committees on Judiciary, Governmental Oversight and Productivity and Senator Crist—

CS for CS for SB 710—A bill to be entitled An act relating to state government; creating the "Florida Customer Service Standards Act"; providing definitions; specifying measures that state departments are directed to implement with respect to interaction with their customers; providing requirements regarding operating hours; providing that failure to comply with the act does not constitute a cause of action; providing exceptions; providing an effective date.

—was taken up, read the first time by title, and substituted for CS/HB 73. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Wallace, the rules were waived and CS for CS for SB 710 was read the second time by title and the third time by title. On passage, the vote was:

Session Vote Sequence: 308

Yeas—112

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

Nays—2

Ausley	Richardson

Votes after roll call:
Yeas—Brutus, Gannon

So the bill passed and was immediately certified to the Senate.

Continuation of Bills and Joint Resolutions on Third Reading

Consideration of **HB 1983** was temporarily postponed under Rule 11.10.

SB 226—A bill to be entitled An act relating to prisons; creating the "Protection Against Sexual Violence in Florida Jails and Prisons Act"; amending s. 944.35, F.S.; requiring the Criminal Justice Standards and Training Commission to develop a course relating to sexual assault identification and prevention as part of the correctional-officer training program; creating s. 951.221, F.S.; prohibiting sexual misconduct by employees of county or municipal detention facilities; providing for termination of employment under certain circumstances; providing penalties; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 309

Yeas—117

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

Nays—1

Sorensen

So the bill passed and was immediately certified to the Senate.

HB 1091—A bill to be entitled An act relating to specialty license plates; amending ss. 320.08056 and 320.08058, F.S.; providing for a Florida Golf license plate; providing for a use fee; directing the Department of Highway Safety and Motor Vehicles to develop a Florida Golf license plate; providing for the distribution and use of fees; requiring the Florida Sports Foundation to establish a youth golf program; providing for an advisory committee; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 310

Yeas—116

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

Nays—3

Brummer	Green	Romeo

So the bill passed, as amended, and was immediately certified to the Senate.

On motion by Rep. Goodlette, the rules were waived and **HB 1933**, **HB 1713**, **HB 1947**, **CS/HB 371**, **HJR 571**, **CS/HB 135**, **HB 361**, **HB 1883**, **CS/HB 1255**, **HB 1923**, **HB 1099**, **HB 1789**, **HB 561**, **HB 829**, **HB 831**, **HB 835**, **HB 843**, **HB 869**, **HB 899**, **HB 923**, **HB 933**, **HB 935**, **HB 1849**, and **HB 837** were added to the Special Order Calendar.

On motion by Rep. Goodlette, the House moved to the consideration of HB 1919 on Bills and Joint Resolutions on Third Reading.

HB 1919—A bill to be entitled An act relating to trust funds; creating s. 282.23, F.S.; creating the Technology Enterprise Trust Fund within the Department of Management Services; providing for sources of funds and purposes; providing for creation of a reserve account; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 311

Yeas—114

The Chair	Baxley	Brutus	Diaz-Balart
Alexander	Bean	Bucher	Dockery
Allen	Bendross-Mindingall	Bullard	Farkas
Andrews	Bennett	Cantens	Fasano
Argenziano	Bense	Carassas	Fields
Arza	Benson	Clarke	Fiorentino
Atwater	Berfield	Crow	Flanagan
Ausley	Betancourt	Cusack	Frankel
Baker	Bowen	Davis	Gannon
Ball	Brown	Detert	Garcia
Barreiro	Brummer	Diaz de la Portilla	Gardiner

Gelber	Kendrick	Mealor	Seiler
Gibson	Kilmer	Melvin	Simmons
Gottlieb	Kosmas	Miller	Siplin
Green	Kottkamp	Murman	Slosberg
Greenstein	Kravitz	Needelman	Smith
Haridopolos	Kyle	Negron	Sobel
Harper	Lacasa	Paul	Sorensen
Harrell	Lee	Peterman	Spratt
Hart	Lerner	Pickens	Stansel
Henriquez	Littlefield	Prieguez	Trovillion
Heyman	Lynn	Rich	Wallace
Hogan	Machek	Richardson	Waters
Holloway	Mack	Ritter	Weissman
Jennings	Mahon	Romeo	Wiles
Johnson	Mayfield	Ross	Wilson
Jordan	Maygarden	Rubio	Wishner
Joyner	McGriff	Russell	
Kallinger	Meadows	Ryan	

Nays—None

So the bill passed by the required constitutional three-fifths vote of the membership and was immediately certified to the Senate.

On motion by Rep. Byrd, the House moved to the consideration of CS for SB 1226 on Bills and Joint Resolutions on Third Reading.

THE SPEAKER PRO TEMPORE IN THE CHAIR

CS for SB 1226—A bill to be entitled An act relating to workforce development; amending s. 445.004, F.S.; specifying an additional member of the board of directors of Workforce Florida, Inc.; requiring certain funds to be expended for after-school care programs; prohibiting certain uses of such funds; prescribing eligibility criteria for certain organizations providing such programs; amending s. 445.007, F.S.; providing legislative intent relating to involving certain persons in board activities; providing legislative findings and intent; creating the Digital Divide Council in the State Technology Office; specifying membership; providing for terms, filling vacancies, and compensation; providing for council meetings and officers; requiring the State Technology Office to provide administrative and technical support; providing powers and duties of the council; authorizing design and implementation of certain programs; providing program objectives and goals; requiring the council to monitor, review, and assess program performances; requiring reports; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 312

Yeas—114

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

Nays—None

Votes after roll call:
Yeas—Ross

So the bill passed, as amended, and was immediately certified to the Senate.

Bills and Joint Resolutions on Second Reading

SB 1066—A bill to be entitled An act relating to the Florida Evidence Code; creating s. 90.4026, F.S.; providing definitions; providing for the inadmissibility of certain statements, writings, or benevolent gestures as evidence in a civil action; providing for the admissibility of certain statements; providing an effective date.

—was read the second time by title.

Further consideration of **SB 1066** was temporarily postponed under Rule 11.10.

On motion by Rep. Byrd, the House moved to the consideration of CS/HB 717 on Bills and Joint Resolutions on Third Reading.

Continuation of Bills and Joint Resolutions on Third Reading

CS/HB 717—A bill to be entitled An act relating to assessment of agricultural property; amending s. 193.461, F.S.; providing that, for purposes of the income methodology approach to such assessment, certain irrigation systems, litter containment structures, and animal waste nutrient containment structures shall be considered a part of the average yields per acre and have no separately assessable contributory value; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 313

Yeas—119

The Chair	Brutus	Gibson	Kravitz
Alexander	Bucher	Goodlette	Kyle
Allen	Bullard	Gottlieb	Lacasa
Andrews	Byrd	Green	Lee
Argenziano	Cantens	Greenstein	Lerner
Arza	Carassas	Haridopolos	Littlefield
Attkisson	Clarke	Harper	Lynn
Atwater	Cusack	Harrell	Machek
Ausley	Davis	Harrington	Mack
Baker	Detert	Hart	Mahon
Ball	Diaz de la Portilla	Henriquez	Mayfield
Barreiro	Diaz-Balart	Heyman	Maygarden
Baxley	Dockery	Hogan	McGriff
Bean	Farkas	Holloway	Meadows
Bendross-Mindingall	Fasano	Jennings	Mealor
Bennett	Feeney	Johnson	Melvin
Bense	Fields	Jordan	Miller
Benson	Fiorentino	Joyner	Needelman
Berfield	Flanagan	Justice	Negron
Betancourt	Frankel	Kallinger	Paul
Bilirakis	Gannon	Kendrick	Peterman
Bowen	Garcia	Kilmer	Pickens
Brown	Gardiner	Kosmas	Prieguez
Brummer	Gelber	Kottkamp	Rich

Richardson	Ryan	Sobel	Waters
Ritter	Seiler	Sorensen	Weissman
Romeo	Simmons	Spratt	Wiles
Ross	Siplin	Stansel	Wilson
Rubio	Slosberg	Trovillion	Wishner
Russell	Smith	Wallace	

Nays—None

So the bill passed and was immediately certified to the Senate.

CS/HB 161—A bill to be entitled An act relating to water management; creating the Citrus/Hernando Waterways Restoration Council; providing for membership, powers, and duties; providing for separate county task forces; providing for an advisory group to the council; providing for a report to the Legislature; requiring the Southwest Florida Water Management District to provide staff for the council; providing for a Citrus/Hernando Waterways restoration program; providing program tasks; providing for award of contracts subject to an appropriation of funds; providing for demonstration restoration projects; providing effective dates.

—was read the third time by title.

Representative(s) Argenziano offered the following:

(Amendment Bar Code: 502167)

Amendment 6—On page 2,line 21 after the period, of the bill

insert:
The lead agency shall be the Fish and Wildlife Conservation Commission.

Rep. Argenziano moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/HB 161. The vote was:

Session Vote Sequence: 314

Yeas—119

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

CS/HB 1361—A bill to be entitled An act relating to charter schools; amending s. 228.056, F.S.; prohibiting a public school from using the word "charter" in its name unless it is currently operating under a charter that has been granted pursuant to this section; providing additional purposes of charter schools; requiring a public school to have been in operation for at least 2 years prior to application to convert to charter school status; requiring a school board to provide notice of denial to charter school applicant in writing; prohibiting a sponsor from charging a fee related to the consideration of a charter school application; prohibiting the consideration or approval of a charter school application from being contingent on the promise of future payment of any kind; clarifying provisions relating to appeals of denial of charter school applications; deleting provisions relating to failure to act in accordance with the recommendation of the State Board of Education regarding a charter school application; exempting a charter school from a sponsor's policies; authorizing charter school cooperatives; deleting a cap on the number of newly created charter schools; authorizing students in a charter school-in-a-development or charter school-in-a-municipality as a condition of eligibility; authorizing students articulating from one charter school to another as a condition of eligibility; authorizing the establishment of reasonable academic, artistic, or other standards as a condition for eligibility; requiring the capacity of a charter school to be annually determined by the charter school's governing body based on certain factors; allowing required financial records to follow accounting principles for not-for-profit organizations; requiring a charter to address the identification and acquisition of appropriate technologies; requiring a charter to address how a school board shall provide academic student performance data to charter schools; requiring a charter to address means for ensuring accountability; requiring a charter to address a description of delineated responsibilities needed to effectively manage the charter school; requiring a charter to address procedures that identify risks and provide an approach to remove the impact of losses; requiring a charter to include a financial plan for the facilities to be used; requiring a charter to address the strategies used to recruit qualified staff; requiring the governing body to exercise continuing oversight over charter school operations; providing for appeal of a sponsor's decision to terminate a charter; providing for a charter school governing board to request a waiver of statutes directly from the commissioner, rather than through the sponsor; providing for notice of receipt and final disposition of such request; stipulating that a charter school may not knowingly employ an individual whose certification has been revoked by this or any other state; requiring student enrollment report to be submitted in a certain format; prohibiting a sponsor from withholding an administrative fee from certain funds; requiring PECO maintenance funds to remain with a conversion charter school; authorizing the establishment of a charter school-in-a-development and a charter school-in-a-municipality; amending s. 228.0561, F.S.; deleting current capital outlay distribution methods; requiring the Department of Education to distribute capital outlay funds on a monthly basis; amending s. 228.058, F.S.; requiring public schools in a charter school district to vote by a time certain to convert to a charter school; amending s. 232.425, F.S.; authorizing charter school students to participate at the public school to which the student would be assigned in any interscholastic extracurricular activity of that school; amending s. 159.27, F.S.; redefining the term "educational facility" for purposes of part II of ch. 159, F.S., the Florida Industrial Development Financing Act, to include charter schools and developmental research schools; providing an effective date.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 763679)

Technical Amendment 13—On page 2, line 9, of the bill

after the semicolon insert: requiring the charter school governing board to adopt an operating budget;

On page 3, line 11,

after the semicolon insert: requiring a school board to expedite consideration of a resolution relating to certain revenue procedures; revising provisions relating to compliance with the Florida Building Code;

On page 33, lines 30 and 31,
remove from the bill: all of said lines

and insert in lieu thereof: *to the* ~~After January 1, 2001, charter school facilities shall utilize facilities which comply with the~~ Florida

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

THE SPEAKER IN THE CHAIR

Representative(s) Richardson offered the following:

(Amendment Bar Code: 885199)

Amendment 14 (with title amendment)—On page 11, line 24 through page 12, line 8,
remove from the bill: all of said lines

and insert in lieu thereof: (c) The district school board must act upon the recommendation of the State Board of Education within 30 calendar days after it is received. The district board may fail to act in accordance with the recommendation of the state board only for good cause. Good cause for failing to act in accordance with the state board's recommendation arises only if the district school board determines by competent substantial evidence that approving the state board's recommendation would be contrary to law or contrary to the best interests of the pupils or the community. The district school board must articulate in written findings the specific reasons based upon good cause supporting its failure to act in accordance with the state board's recommendation. The district board's action on the state board's recommendation is a final action subject to judicial review.

And the title is amended as follows:

On page 1, lines 20-24,
remove from the title of the bill: all of said lines

and insert in lieu thereof: denial of charter school applications; exempting a charter school from a

Rep. Richardson moved the adoption of the amendment, which failed to receive the necessary two-thirds vote for adoption.

Representative(s) Attkisson offered the following:

(Amendment Bar Code: 505921)

Amendment 15 (with title amendment)—On page 28, line 27, of the bill

after the period insert:
If a charter school or public school teacher has completed the requirements in s. 231.17(2)(g), except the demonstration of general knowledge of mathematics, that person may continue employment as a teacher for the 3 years during which the temporary certificate is valid, if the teacher does not teach mathematics above the 4th-grade level and the teacher is enrolled in a state-approved program designed to improve mathematics skills. If the teacher has not completed the mathematics requirement after 3 school years, the school district may not continue to employ him or her in a position for which a temporary certificate is required.

And the title is amended as follows:

On page 3, line 6,

after the semicolon insert: revising criteria for continued employment as a teacher under certain circumstances;

Rep. Attkisson moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Attkisson offered the following:

(Amendment Bar Code: 375563)

Amendment 16 (with title amendment)—On page 43, between lines 13 and 14, of the bill

insert:

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

(a) The local government shall designate by ordinance a geographic area to be known as a neighborhood school construction zone. The zone shall include the area within the proposed comprehensive plan amendment, rezoning designation, or approved development.

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

(2) Upon creation of a neighborhood school construction zone, all educational facilities impact fees, voluntary or involuntary extraction payments, collected within the zone shall be deposited in the trust fund for facilities construction within the zone. All interlocal agreements between local general purpose governments and school districts shall provide for such allocation.

(3) In the event the local general purpose government and the applicant agree pursuant to paragraph (a) to the described proportionate share mitigation, additional annual funding of the trust fund shall be in an amount not less than the increment in the income, proceeds, revenues, and funds of the school district derived from or held in connection with the undertaking and carrying out of residential development within the neighborhood school construction zone. Such increment shall be determined annually and shall be that amount equal to 95 percent of the difference between:

(a) The amount of ad valorem taxes levied each year by the school district within the neighborhood school construction zone pursuant to s. 236.25(1), Florida Statutes, exclusive of any amount for any debt service millage, on taxable real property contained within the geographic boundaries of the neighborhood school construction zone; and

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

(4) An approved applicant may petition the local general purpose government for funds to build an educational facility. The facility shall be built according to state law, located geographically within the established neighborhood school construction zone, and adhere to the following requirements:

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

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

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

1. For district-operated schools, the difference shall be funded pursuant to other local sources of revenue per agreement with the local school district.

2. For schools approved pursuant to s. 228.056, Florida Statutes, the difference shall be funded with funds generated pursuant to s. 228.0561, Florida Statutes.

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

(c) The SMART Schools Clearinghouse shall oversee this section as a 3-year pilot project beginning July 1, 2001. The pilot project shall be for up to six counties selected by the SMART Schools Clearinghouse. A report showing the feasibility and long-term effects of neighborhood school construction trust funds shall be made to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2004.

And the title is amended as follows:

On page 3, line 31, after the semicolon, of the title of the bill

insert: creating a neighborhood school construction zone pilot project; providing for procedures; providing that impact fees within the zone must be placed in a facilities construction trust fund for that zone; providing additional funding; providing that the SMART Schools Clearinghouse shall oversee the pilot project and submit a report to the Governor and Legislature regarding the program's feasibility;

Rep. Attkisson moved the adoption of the amendment, which failed to receive the necessary two-thirds vote for adoption. The vote was:

Session Vote Sequence: 315

Yeas—73

The Chair	Bullard	Harrington	Miller
Alexander	Byrd	Hart	Murman
Allen	Cantens	Hogan	Needelman
Andrews	Carassas	Holloway	Negron
Arza	Clarke	Jennings	Paul
Attkisson	Davis	Johnson	Pickens
Baker	Diaz de la Portilla	Jordan	Prieguez
Ball	Diaz-Balart	Kallinger	Ross
Barreiro	Dockery	Kottkamp	Rubio
Baxley	Farkas	Kravitz	Russell
Bean	Fasano	Kyle	Simmons
Bennett	Flanagan	Lacasa	Sorensen
Bense	Garcia	Littlefield	Spratt
Benson	Gardiner	Machek	Trovillion
Berfield	Gibson	Mack	Wallace
Bilirakis	Goodlette	Mahon	Waters
Bowen	Green	Mayfield	
Brown	Haridopolos	Maygarden	
Brummer	Harrell	Mealor	

Nays—45

Atwater	Gelber	Lerner	Siplin
Ausley	Gottlieb	Lynn	Slosberg
Bendross-Mindingall	Greenstein	McGriff	Smith
Betancourt	Harper	Meadows	Sobel
Brutus	Henriquez	Melvin	Stansel
Bucher	Heyman	Peterman	Weissman
Cusack	Joyner	Rich	Wiles
Detert	Justice	Richardson	Wilson
Fields	Kendrick	Ritter	Wishner
Fiorentino	Kilmer	Romeo	
Frankel	Kosmas	Ryan	
Gannon	Lee	Seiler	

Motion to Reconsider

Rep. Greenstein moved that the House reconsider the vote by which **Amendment 15** to **CS/HB 1361** was adopted, which was not agreed to by the required two-thirds vote.

REPRESENTATIVE MELVIN IN THE CHAIR

The question recurred on the passage of CS/HB 1361. The vote was:

Session Vote Sequence: 316

Yeas—86

Alexander	Cantens	Hart	Needelman
Allen	Carassas	Hogan	Negron
Argenziano	Clarke	Johnson	Paul
Arza	Cusack	Jordan	Pickens
Attkisson	Davis	Kallinger	Prieguez
Atwater	Diaz de la Portilla	Kilmer	Rich
Baker	Diaz-Balart	Kosmas	Ritter
Ball	Dockery	Kottkamp	Romeo
Barreiro	Farkas	Kravitz	Ross
Baxley	Fasano	Kyle	Rubio
Bean	Feeney	Lacasa	Russell
Bennett	Fields	Lee	Simmons
Bense	Fiorentino	Lerner	Siplin
Benson	Flanagan	Littlefield	Sorensen
Berfield	Gannon	Lynn	Spratt
Betancourt	Garcia	Mack	Stansel
Bilirakis	Gardiner	Mahon	Trovillion
Bowen	Gibson	Mayfield	Wallace
Brown	Goodlette	Maygarden	Waters
Brummer	Green	Mealor	Wiles
Bullard	Haridopolos	Miller	
Byrd	Harrell	Murman	

Nays—23

Ausley	Greenstein	McGriff	Slosberg
Bucher	Henriquez	Meadows	Sobel
Detert	Heyman	Peterman	Weissman
Frankel	Holloway	Richardson	Wilson
Gelber	Jennings	Ryan	Wishner
Gottlieb	Kendrick	Seiler	

Votes after roll call:
Yeas—Joyner, Justice, Melvin
Yeas to Nays—Rich

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 465—A bill to be entitled An act relating to determinations of residency for tuition purposes; amending s. 240.1201, F.S.; revising provisions relating to determinations of residency for tuition purposes to classify members of the active Florida National Guard as residents for tuition purposes; amending s. 240.2099, F.S.; providing additional authority of the Board of Regents and the State Board of Community Colleges with respect to the implementation of the statewide computer-assisted student advising system; providing for expenditure of specified proceeds; providing an effective date.

—was read the third time by title.

Representative(s) Baker offered the following:

(Amendment Bar Code: 892517)

Amendment 2—On page 4, lines 1-5
remove from the bill: all of said lines

and insert in lieu thereof:

(d) Final actions taken by the Board of Regents and the State Board of Community Colleges or their successor, related to the agreement, are subject to the notice review and objection procedure established in s. 216.177, Florida Statutes.

Rep. Baker moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 465. The vote was:

Session Vote Sequence: 317

Yeas—114

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

Nays—None

Votes after roll call:
Yeas—Flanagan, Melvin

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 757—A bill to be entitled An act relating to wrecker liens; amending s. 320.03, F.S.; including a cross reference; providing that the term "civil penalties and fines" does not include reference to a wrecker operator's lien; amending s. 713.78, F.S.; providing that the Department of Highway Safety and Motor Vehicles shall not issue a license plate or revalidation sticker for certain motor vehicles, vessels, or motor homes for which a wrecker operator's lien has been issued; providing procedures with respect to such liens; providing an effective date.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 485277)

Technical Amendment 2—On page 1, line 6,
remove from the bill: F.S.;

and insert in lieu thereof: F.S., relating to liens; revising conditions for sale of certain vehicles and vessels;

and on page 2, lines 18-23,
remove from the bill: all of said lines

and insert:

Section 2. Paragraph (b) of subsection (4) and subsection (6) of section 713.78, Florida Statutes, are amended, and subsection (13) is added to said section, to read:

713.78 Liens for recovering, towing, or storing vehicles and documented vessels.—

(4)

(b) Notice by certified mail, return receipt
and on page 4, line 22,
remove from the bill: *"paragraphs"*
and on page 4, line 23,
remove from the bill: *"(2)(c) or (2)(d)"*

and insert in lieu thereof: *paragraph (2)(c) or paragraph (2)(d)*
and on page 6, line 25,
remove from the bill: *"licensed"*

and insert in lieu thereof: *license*
On page 7, line 22,
remove from the bill: *"licensed"*

and insert in lieu thereof: *license*
and on page 8, line 9,
remove from the bill: *"licensed"*

and insert in lieu thereof: *license*
and on page 8, line 16,
remove from the bill: *"application"*

and insert in lieu thereof: *applicable*

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

The question recurred on the passage of HB 757. The vote was:

Session Vote Sequence: 318

Yeas—113

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

Nays—1

Waters

Votes after roll call:
Yeas—Flanagan, Melvin

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

SB 1400—A bill to be entitled An act relating to swimming pool/spa servicing contractors; amending s. 489.111, F.S.; providing eligibility requirements to take the licensure examination for the swimming pool/spa servicing contractor's license; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 319

Yeas—117

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

Nays—1

Wishner

Votes after roll call:
Yeas—Melvin
Nays to Yeas—Wishner

So the bill passed and was immediately certified to the Senate.

CS/CS/HB 411—A bill to be entitled An act relating to the Florida Mobile Home Act; amending s. 723.003, F.S.; defining the term "proportionate share"; amending s. 723.011, F.S.; requiring the Division of Florida Land Sales, Condominiums, and Mobile Homes to maintain specified records; requiring that copies be provided within a specified time after written request; amending s. 723.012, F.S.; revising provisions relating to statements in a prospectus; amending s. 723.037, F.S.; revising procedures for meetings that determine the status of changes in lot rentals; amending s. 723.061, F.S.; revising timeframes for giving notice of changes in lot rental amounts and use of mobile home parks; creating s. 723.0611, F.S.; creating the Florida Mobile Home Relocation Corporation; providing for a board of directors to be appointed by the Secretary of Business and Professional Regulation; providing for terms of office; specifying powers and duties of the board; authorizing the corporation to borrow from private finance sources; creating s. 723.0612, F.S.; providing for the payment of relocation expenses if a mobile home owner is required to move due to a change in use of the mobile home park; providing exceptions; specifying procedures for payments upon approval of the corporation; authorizing a mobile home owner to abandon the mobile home and collect one-fourth the amount of relocation expenses; providing a penalty; providing for recognition of existing contracts; providing an effective date.

—was read the third time by title.

Representative(s) Alexander offered the following:

(Amendment Bar Code: 085181)

Amendment 3 (with title amendment)—On page 2, line 7, insert:

Section 1. Section 215.559, Florida Statutes, is amended to read:

215.559 Hurricane Loss Mitigation Program.—

(1) There is created a Hurricane Loss Mitigation Program. The Legislature shall annually appropriate $10 million of the moneys authorized for appropriation under s. 215.555(7)(c) from the Florida Hurricane Catastrophe Fund to the Department of Community Affairs for the purposes set forth in this section.

(2)(a) Seven million dollars in funds provided in subsection (1) shall be used for programs to improve the wind resistance of residences and mobile homes, including loans, subsidies, grants, demonstration projects, and direct assistance; cooperative programs with local governments and the Federal Government; and other efforts to prevent or reduce losses or reduce the cost of rebuilding after a disaster.

(b) Three million dollars in funds provided in subsection (1) shall be used to retrofit existing facilities used as public hurricane shelters. The department must prioritize the use of these funds for projects included in the September 1, 2000, version of the Shelter Retrofit Report prepared in accordance with s. 252.385(3), and each annual report thereafter. The department must give funding priority to projects in regional planning council regions that have shelter deficits and to projects that maximize use of state funds.

(3) *Forty* ~~At least 40~~ percent of the total appropriation *in paragraph (2)(a) shall be used to inspect and improve tie-downs for mobile homes. Within 30 days after the effective date of that appropriation, the department shall contract with a public higher educational institution in this state which has previous experience in administering the programs set forth in this subsection to serve as the administrative entity and fiscal agent pursuant to s. 216.346 for the purpose of administering the programs set forth in this subsection in accordance with established policy and procedures* ~~for loans, subsidies, grants, demonstration projects, and direct assistance for the first year of the programs shall be used for mobile homes, including programs to inspect and improve tie-downs, construct and provide safety structures, and provide other means to reduce losses. In the second year of the programs, at least 30 percent of the total appropriation shall be used for mobile homes, and thereafter at least 20 percent shall be used for such purposes~~. *The administrative entity working with the advisory council set up under subsection (5) shall develop a list of mobile home parks and counties that may be eligible to participte in the tie-down program.*

(4) Of moneys provided to the Department of Community Affairs *in paragraph (2)(a)*, 10 percent shall be allocated to *a* ~~the Operations and Maintenance Trust Fund in the general office of the Board of Regents, to be used by the~~ Type I Center within the State University System dedicated to hurricane research*. The Type I Center shall develop a preliminary work plan approved by the advisory council set forth in subsection (5) to eliminate the state and local barriers to upgrading existing mobile homes and communities, research and develop a program for the recycling of existing older mobile homes*, *and* ~~to~~ support programs of research and development relating to hurricane loss reduction devices and techniques for *site-built* residences ~~and mobile homes and relating to the development of credible data on potential loss reductions~~. The State University System *also* shall consult with the Department of Community Affairs and assist the department with the report required under subsection (7).

(5) *Except for the program set forth in subsection (3),* the Department of Community Affairs shall develop the programs *set forth in this section* in consultation with an advisory council ~~appointed by the secretary~~ consisting of a representative *designated by* ~~of~~ the Department of Insurance, a representative *designated by the Florida Home Builders Association* ~~of home builders~~, a representative *designated by the Florida Insurance Council* ~~of insurance companies~~, a representative *designated by* ~~of~~ the Federation of *Manufactured* ~~Mobile~~ Home Owners, a representative *designated by* ~~of~~ the Florida Association of Counties, and

a representative *designated by* ~~of~~ the Florida Manufactured Housing Association ~~who is a mobile home manufacturer or supplier~~.

(6) Moneys provided to the Department of Community Affairs under this section are intended to supplement other funding sources of the Department of Community Affairs and may not supplant other funding sources of the Department of Community Affairs.

(7) On January 1st of *each year* ~~2001 and 2002~~, the Department of Community Affairs shall provide a full report and accounting of activities under this section and an evaluation of such activities to the Speaker of the House of Representatives, the President of the Senate, and the Majority and Minority Leaders of the House of Representatives and the Senate.

(8) This section is repealed June 30, 2002.

And the title is amended as follows:

On page 1, line 2,
remove from the title of the bill: all of said line,

and insert in lieu thereof: An act relating to mobile homes; amending s. 215.559, F.S.; specifying the amount of funds to be used to inspect and improve tie-downs for mobile homes; requiring the Department of Community Affairs to contract with a public higher educational institution to serve as an administrative entity and fiscal agent for certain purposes; establishing responsibilities for such administrative entity; requiring a certain Type I Center to develop a work plan for certain purposes; revising the process for establishing an advisory council; requiring an annual report;

Rep. Spratt moved the adoption of the amendment.

Representative(s) Alexander offered the following:

(Amendment Bar Code: 912143)

Amendment 1 to Amendment 3—On page 4, line 14,
remove from the amendment: 2002

and insert in lieu thereof: *2006* ~~2002~~

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

The question recurred on the adoption of **Amendment 3**, as amended, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/CS/HB 411. The vote was:

Session Vote Sequence: 320

Yeas—116

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

Nays—None

Votes after roll call:
Yeas—Smith

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

SB 1516—A bill to be entitled An act relating to surety bonds; amending ss. 235.32, 255.05, F.S.; prohibiting public entities from directing that contractors building public facilities obtain surety bonds from a specific agent or bonding company; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 321

Yeas—115

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

Nays—None

So the bill passed and was immediately certified to the Senate.

Special Orders

On motion by Rep. Byrd, the House moved to the consideration of SB 1066.

On motion by Rep. Maygarden, the rules were waived and—

SB 1066—A bill to be entitled An act relating to the Florida Evidence Code; creating s. 90.4026, F.S.; providing definitions; providing for the inadmissibility of certain statements, writings, or benevolent gestures as evidence in a civil action; providing for the admissibility of certain statements; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 322

Yeas—116

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

Nays—1

Hart

Votes after roll call:
Yeas—Melvin, Richardson

So the bill passed and was immediately certified to the Senate.

Consideration of CS for CS for SB 668

On motion by Rep. Byrd, the House moved to the consideration of CS for CS for SB 668.

On motion by Rep. Russell, the rules were waived and—

CS for CS for SB 668—A bill to be entitled An act relating to enterprise zones; creating s. 290.00695, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone within an area of Hernando County or of Hernando County and the City of Brooksville jointly; creating s. 290.00696, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in Holmes County; providing requirements with respect thereto; creating s. 290.00697, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in Calhoun County; providing requirements with respect thereto; creating s. 290.00698, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in Okaloosa County; providing requirements with respect thereto; creating s. 290.00694, F.S.; authorizing the Office of Tourism, Trade, and Economic Development to designate an enterprise zone in Sarasota County; providing requirements with respect thereto; providing for designation of a specified area within Hillsborough County as an enterprise zone; amending s. 290.00555, F.S.; removing the December 31, 1999, deadline for creation of satellite enterprise zones by certain municipalities and authorizing creation of such zones effective retroactively to that date; providing duties of the Office of Tourism, Trade, and Economic Development; providing an application deadline for businesses in such zones eligible for certain sales and use tax incentives; authorizing a boundary change in a specified enterprise zone; amending s. 290.0065, F.S.; providing for the change in the boundaries of an enterprise zone under specified conditions; providing an effective date.

—was read the second time by title. On motion by Rep. Russell, the rules were waived and the bill was read the third time by title. On passage, the vote was:

Session Vote Sequence: 323

Yeas—116

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

Nays—None

Votes after roll call:
Yeas—Melvin

So the bill passed and was immediately certified to the Senate.

Disclosure of Interest

I wish to disclose I own a one and one-half acre of property under a corporate entity within the proposed enterprise zone in Sarasota county. I will vote for CS/HB 83 and SB 668 as they are good bills for the state.

Rep. Michael S. Bennett
District 67

Continuation of Bills and Joint Resolutions on Third Reading

HB 625—A bill to be entitled An act relating to security for public deposits; amending ss. 280.02, 280.04, 280.041, 280.05, 280.051, 280.054, 280.055, 280.07, 280.08, 280.09, 280.10, 280.11, 280.13, and 280.16, F.S.; revising definitions; revising provisions requiring collateral for public deposits; providing for use of certain letters of credit; requiring additional collateral under certain circumstances; providing penalties; specifying certain agreements for use as collateral; prohibiting a qualified public depository from acting as its own custodian; authorizing a custodian to withdraw as custodian under certain circumstances; authorizing use of certain letters of credit; providing requirements; revising triggering events for certain actions by the Treasurer; revising powers and duties of the Treasurer; clarifying grounds for suspension or disqualification of a qualified public depository; revising conditions for imposition of an administrative penalty; clarifying criteria for the Treasurer to issue certain orders;

providing for contingent liability; clarifying procedures for payment of losses; providing for deposit of draws on letters of credit into the Public Deposits Trust Fund; revising procedures and requirements relating to effect of mergers, acquisitions, or consolidations; providing conditions for eligibility of certain letters of credit as collateral; clarifying requirements of qualified public depositories; creating s. 280.071, F.S.; creating the Qualified Public Depository Oversight Board; providing purposes; requiring the Treasurer to initiate selection of board members; providing for selection of board members by certain qualified public depositories; providing qualifications; providing powers and duties of the board; authorizing the Treasurer to adopt rules for certain purposes; providing effective dates.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 324

Yeas—115

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

Nays—None

Votes after roll call:
Yeas—Melvin

So the bill passed, as amended, and was immediately certified to the Senate.

HB 1077 was taken up. On motion by Rep. Mack, the rules were waived and—

SB 1324—A bill to be entitled An act relating to health care; creating s. 456.41, F.S.; authorizing provision of and access to complementary or alternative health care treatments; requiring patients to be provided with certain information regarding such treatments; requiring the keeping of certain records; providing effect on the practice acts; amending s. 381.026, F.S.; revising the Florida Patient's Bill of Rights and Responsibilities to include the right to access any mode of treatment the patient or the patient's health care practitioner believes is in the patient's best interests; providing an effective date.

—was substituted for HB 1077 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Mack, the rules were waived and SB 1324 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 325

Yeas—118

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

Nays—None

Votes after roll call:
Yeas—Melvin

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Byrd, consideration of **CS/HB 1819** was temporarily postponed under Rule 11.10.

On motion by Rep. Byrd, the House moved to the consideration of SB 1986 on Bills and Joint Resolutions on Third Reading.

THE SPEAKER IN THE CHAIR

SB 1986—A bill to be entitled An act relating to group insurance for public officers, employees, and volunteers; amending s. 112.08, F.S.; prescribing procedure for a local governmental unit to replace health insurance when the contracting provider becomes financially impaired or fails or refuses to provide coverage; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 326

Yeas—117

The Chair	Bean	Bullard	Farkas
Alexander	Bendross-Mindingall	Byrd	Fasano
Allen	Bennett	Cantens	Fields
Argenziano	Bense	Carassas	Flanagan
Arza	Benson	Clarke	Frankel
Attkisson	Betancourt	Crow	Gannon
Atwater	Bilirakis	Cusack	Garcia
Ausley	Bowen	Davis	Gardiner
Baker	Brown	Detert	Gelber
Ball	Brummer	Diaz de la Portilla	Gibson
Barreiro	Brutus	Diaz-Balart	Goodlette
Baxley	Bucher	Dockery	Gottlieb

Green	Kilmer	Melvin	Simmons
Greenstein	Kosmas	Miller	Siplin
Haridopolos	Kottkamp	Murman	Slosberg
Harper	Kravitz	Needelman	Smith
Harrell	Kyle	Negron	Sobel
Harrington	Lacasa	Paul	Sorensen
Hart	Lee	Peterman	Spratt
Henriquez	Lerner	Pickens	Stansel
Heyman	Littlefield	Prieguez	Trovillion
Hogan	Lynn	Rich	Wallace
Holloway	Machek	Richardson	Waters
Jennings	Mack	Ritter	Weissman
Johnson	Mahon	Romeo	Wiles
Jordan	Mayfield	Ross	Wilson
Joyner	Maygarden	Rubio	Wishner
Justice	McGriff	Russell	
Kallinger	Meadows	Ryan	
Kendrick	Mealor	Seiler	

Nays—None

So the bill passed and was immediately certified to the Senate.

CS/HB 1701—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; expanding the exemption from public records requirements for identifying information relating to code enforcement officers to include additional information and to include such officers' spouses and children; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 327

Yeas—116

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

Nays—1

Carassas

So the bill passed and was immediately certified to the Senate.

Continuation of Special Orders

Consideration of **CS/HB 135** was temporarily postponed under Rule 11.10.

Bills and Joint Resolutions on Second Reading

Consideration of **HB 61** was temporarily postponed under Rule 11.10.

Continuation of Special Orders

HB 361 was taken up. On motion by Rep. Stansel, the rules were waived and—

CS for SB 240—A bill to be entitled An act relating to sentencing; amending s. 944.17, F.S.; requiring that a prisoner sentenced for a crime committed during incarceration in the state correctional system serve the sentence for such crime in the state system, regardless of the length of sentence imposed; providing an effective date.

—was substituted for HB 361 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Stansel, the rules were waived and CS for SB 240 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 328

Yeas—116

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

Nays—None

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Byrd, the House moved to the consideration of CS/HB 213 on Bills and Joint Resolutions on Second Reading.

Bills and Joint Resolutions on Second Reading

CS/HB 213 was taken up. On motion by Rep. Barreiro, the rules were waived and—

CS for CS for CS for SB's 1526 & 314—A bill to be entitled An act relating to the Money Transmitter's Code; amending s. 560.103, F.S.; revising definitions; amending s. 560.111, F.S.; providing penalties for

specified violations of the deferred presentment act; amending s. 560.114, F.S.; providing additional grounds for disciplinary action; providing for continuation of certain administrative proceedings under certain circumstances; amending s. 560.118, F.S.; eliminating the authority to assess examination fees; amending s. 560.119, F.S.; revising the deposit of fees and assessments; amending s. 560.204, F.S.; clarifying exemption from registration fees under part III of ch. 560, F.S.; amending s. 560.205, F.S.; adding a fee for authorized vendor or branch locations; amending s. 560.206, F.S.; amending the registration period; amending s. 560.207, F.S.; conforming and clarifying the fee for late renewals; amending the renewal application fee; amending s. 560.208, F.S.; requiring notification of vendor or branch locations; requiring a nonrefundable fee and financial statement; amending s. 560.307, F.S.; applying the application fee to check cashers and foreign currency exchanges and adding a fee for authorized vendors or branch locations; requiring notification of vendor or branch locations; amending s. 560.308, F.S.; increasing the registration and renewal fee for each registrant; clarifying the fee to be charged for late renewal; creating part IV, ch. 560, F.S., consisting of ss. 560.401, 560.402, 560.403, 560.404, 560.405, 560.406, 560.407, and 560.408, F.S.; providing a short title; providing definitions; providing registration requirements for deferred presentment transactions; providing for filing fees; providing limitations; specifying requirements and limitations for engaging in deferred presentment transactions; providing prohibitions; providing for fees; providing limitations; requiring certain notice; specifying criteria and requirements for deposit and redemption of a drawer's check; providing procedures for recovering damages for worthless checks; requiring maintenance of records for a time certain; providing legislative intent; requiring the Comptroller to submit a report to the President of the Senate and the Speaker of the House of Representatives concerning the effectiveness of this act; providing an effective date.

—was substituted for CS/HB 213 and read the third time by title. Under Rule 5.15, the House bill was laid on the table. On passage, the vote was:

Session Vote Sequence: 329

Yeas—120

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

Nays—None

So the bill passed and was immediately certified to the Senate.

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed HBs 397, 399, 401, and 947; CS/HB 1425; and HBs 1673 and 1865.

Faye W. Blanton, Secretary

The above bills were ordered enrolled.

Motion to Adjourn

Rep. Byrd moved that the House adjourn for the purpose of holding committee and council meetings and conducting other House business, to reconvene at 10:30 a.m., Wednesday, May 2. The motion was agreed to.

Recorded Votes

Rep. Attkisson:

Yeas—CS/HB 1927

Rep. Bilirakis:

Yeas—CS for CS for SB 144; SB 540; CS/HB 795; HB 1673

Nays—passage of HB 1943 after reconsideration

Rep. Brutus:

Nays—CS/HB 1927

Rep. Crow:

Nays—motion to reconsider the vote by which Amendment 1 to CS/CS/HB 807 was laid on the table

Rep. Cusack:

Nays—Amendment 1 to Amendment 1 to CS/HB 1819

Change from Nays to Yeas—HB 1225

Rep. Fields:

Yeas—CS/HB 1

Rep. Gannon:

Nays—passage of HB 1943 after reconsideration

Rep. Justice:

Change from Nays to Yeas—HB 251

Rep. Kendrick:

Yeas—HB 1785

Rep. Mahon:

Yeas—HB 421; passage of HB 1607 after reconsideration

Rep. Meadows:

Nays—CS/HB 1927

Rep. Pickens:

Nays—passage of HB 1943 after reconsideration

Rep. Stansel:

Yeas—HB 1785

Rep. Waters:

Yeas—Amendment 1 to SB 708; CS/HB 1633

Nays—Amendment 2 to HB 159

Rep. Wishner:

Yeas—CS/CS/HB 1193; CS for SB 1610

Explanation of Vote on HB 489

I believe the people of the great State of Florida were very clear on November 7, 2000, when they voted for the High Speed Rail. I believe citizens said, they want the job done. Therefore, I cannot support HB 489, High Speed Rail Study Commission. This bill would delay the start of the High Speed Rail under the guise of studying the issue. The voters have spoken, we are charged with the responsibility of carrying out their instructions. I am cosponsoring HB 507, a bill which will begin the process of building the High Speed Rail, as the citizens of my district and the state have instructed us.

Rep. Gary Siplin
District 39

Cosponsors

HB 189—Kottkamp
CS/CS/HB 273—Brutus
CS/CS/HB 411—Argenziano
HB 421—Argenziano, Bendross-Mindingall, Berfield, Brutus, Jordan, Mahon, Meadows, Stansel
CS/HB 623—Brutus
CS/HB 687—Fields
CS/HB 729—Gibson
CS/CS/HB 1193—Brummer
CS/HB 1361—Harrell
CS/HB 1375—Harrington
CS/CS/HB 1509—Atwater
CS/CS/HB 1533—Brummer
HB 1695—Brummer
HB 1811—Brummer
HB 1845—Brummer
CS/HB 1889—Bendross-Mindingall, Wilson
HB 1931—Brummer

Communications

The Honorable John M. McKay May 1, 2001
President of the Florida Senate

Dear Mr. President:

In compliance with Article III, Section 19(d) of the Constitution and Joint Rule 2, copies of the Appropriations Conference Committee Reports on SB 2000 and SB 2002 have been furnished to each member of the Legislature, the Governor, the Chief Justice of the Supreme Court, and each member of the Cabinet.

Delivery was completed May 1, 2001 at 7:20 p.m., EDT.

Respectfully submitted,
Faye W. Blanton
Secretary of the Senate

Conference Committee Managers Excused

The following Conference Committee Managers were excused from time to time:

CS/SB 1118 (elections): Rep. Byrd, Chair; Reps. Goodlette, Rubio, and Smith.

SBs 2000 and 2002 (appropriations): Rep. Lacasa, Chair; At Large—Reps. Fasano, Greenstein, Murman, Wallace, Wilson, and Sobel (alternate); Transportation & Economic Development Appropriations—Rep. Johnson, Chair, Reps. Bense, Hart, Jennings, Ritter, Rubio, Berfield (alternate), and Hogan (alternate); Health & Human Services Appropriations—Rep. Maygarden, Chair, Reps. Brummer, Farkas, Green, Rich, Slosberg, Benson (alternate), Brutus (alternate), and Garcia (alternate); Education Appropriations—Rep. Lynn, Chair, Reps. Alexander, Flanagan, Justice, Melvin, Stansel, Arza (alternate), Bucher (alternate), and Mealor (alternate); Criminal Justice Appropriations—Rep. Ball, Chair, Reps. Barreiro, Bilirakis, Mahon, Meadows, Seiler, and Bowen (alternate); General Government Appropriations—Rep. Dockery, Chair, Reps. Holloway, Kilmer, Miller, Siplin, Spratt, and Brown (alternate).

Adjourned

Pursuant to the motion previously agreed to, the House adjourned at 6:10 p.m., to reconvene at 10:30 a.m., Wednesday, May 2.

Pages and Messengers
for the week of
April 30-May 4

PAGES—Katelyn M. Baird, Palatka; Matthew Barnette, Brooksville; Robert Justin Berry, Clermont; Sarah Block, Tequesta; Amber Lynn Brown, Tallahassee; Mark A. Cavins, Palm Bay; Sarah A. Fowler, Clermont; Jeremy C. Fowler, Clermont; Jessica Harmsen, Tallahassee; Taylor Johnson-Rule, Tallahassee; John T. Kennedy, Stuart; Joseph Leuchter, Coral Springs; Lindsay M. Loe, Lake Mary; Terry Paul McGowan, Lithia; Stephen-Michael Hawkins Nixon, Miami; Matthew Parantha, Clewiston; John Daniel Pritchard, Orlando; Jaika S. Selesky, Miami; Joseph Sindad, St. Augustine; Marianne L. Smokay, Orlando; Kristina M. Torpy, Melbourne; Ansley Wales, Lake Alfred; Elizabeth A. Webster, Orlando; Rebekah Wirgau, Tallahassee; Sarah Wirgau, Tallahassee.

MESSENGERS—Jarrett Corbett Austin, Tallahassee; Caitlin Barry, Tallahassee; Paige Barton, Leesburg; Michelle Brown, Orlando; Raymond Lawson Davis, Jacksonville; James Freeman, Waldo; Lauren Jones, DeFuniak Springs; David Aaron Morgan, Jacksonville; Emily K. Newsom, Plant City; Sarah B. Newsom, Plant City; Lloyd Grant Patterson, Pensacola; Richard Phillips, Tallahassee; Kyle D. Rushing, Winter Park; Alexander Steffen Ryan, DeFuniak Springs; Heather Schwartz, Cantonment; Christopher Thompson, Milton; Michael B. Twomey, Tallahassee; Jordan Walker, Indialantic; Katherine Williams, Tallahassee.

The Journal OF THE House of Representatives

Number 22 **Wednesday, May 2, 2001**

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

Prayer

The following prayer was offered by the Pastor Randall "Randy" Ray of Temple Baptist Church of Tallahassee, upon invitation of Rep. Melvin:

Our dear Father in Heaven, we thank You for this great state in which we live and this great country that affords us the freedom to assemble publicly, and to make laws as these in this body will make today, tomorrow, and the next day. I pray that in this body today there will be harmony and also healthy debate. I pray that the business of the state will be concluded by Friday, and thank You for the sacrifice that these Members make. And may we, the citizens of this state, understand and appreciate the nature of the work that they do and how difficult it is to be all things to all people. And may we humbly follow their leadership. We pray for the Governor of our state and the Cabinet, the Lieutenant Governor, this body, and the Senate. In Christ's name, we pray. Amen.

The following Members were recorded present:

Session Vote Sequence: 330

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

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

A quorum was present.

Pledge

The Members, led by Mark Cavins of Palm Bay, Stephen-Michael Hawkins Nixon of Miami, Matthew Parantha of Clewiston, John Daniel Pritchard of Orlando and Joseph Sindad of St. Augustine, pledged allegiance to the Flag. Mark Cavins served at the invitation of Rep. Needelman. Stephen-Michael Hawkins Nixon served at the invitation of Rep. Bendross-Mindingall. Matthew Parantha served at the invitation of Rep. Spratt. John Daniel Pritchard served at the invitation of Speaker Feeney. Joseph Sindad served at the invitation of Rep. Wiles.

House Physician

The Speaker introduced Dr. Robert Pickard of South Miami, who served in the Clinic today upon invitation of Rep. Prieguez.

Correction of the *Journal*

The *Journal* of May 1 was corrected and approved as corrected.

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed SB 1142; CS for CS for SB 1376; and SB 1428, as amended; passed CS for SB 1540 by the required Constitutional three-fifths vote of the members of the Senate; passed CS for SB 1576 and CS for SB 1662, as amended; passed CS for SB 1836; passed CS for CS for SB 1878, as amended; passed CS for SB 1922, as further amended; and passed CS for SB 2220, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By Senator Constantine—

SB 1142—A bill to be entitled An act relating to the emergency telephone system; amending ss. 365.171, 365.172, 365.174, F.S.; transferring state control over the Florida Emergency Telephone Act and the Wireless Emergency Communications Act from the Department of Management Services to the Office of State Technology; conforming statutory references; providing for the "911" fee to be used by certain counties to fund a pilot project for a nonemergency system; amending s. 365.173, F.S.; authorizing the State Treasurer to invest moneys in the Wireless Emergency Telephone System Fund; removing requirements

that funds be held in escrow; revising the date for submission of the legislative budget request; providing an effective date.

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

By the Committees on Finance and Taxation, Natural Resources and Senator Laurent—

CS for CS for SB 1376—A bill to be entitled An act relating to mining; amending s. 378.035, F.S.; reserving certain funds in the Nonmandatory Land Reclamation Trust Fund for use by the Department of Environmental Protection for reclaiming lands; authorizing the department to use funds from the trust fund for the purpose of closing certain abandoned phosphogypsum stack systems; limiting the period of operation of the program; requiring the Bureau of Mine Reclamation to review the sufficiency of the trust fund to support certain objectives and make reports; amending s. 378.601, F.S.; deleting provisions exempting certain mining operations from review as developments of regional impact; amending s. 403.4154, F.S.; defining the terms "phosphogypsum stack system" and "process wastewater"; authorizing the Department of Environmental Protection to take action to abate or reduce any imminent hazard caused by a phosphogypsum stack system; requiring the department to recover moneys from the owner or operator of the system; providing for attorney's fees and costs; authorizing the department to impose a lien for the recovery of such moneys; imposing certain fees upon an owner or operator who has not demonstrated financial responsibility; providing for the refund of the fee upon closure of the phosphogypsum stack; authorizing the department to expend moneys from the Nonmandatory Land Reclamation Trust Fund to close abandoned phosphogypsum stack systems; providing for a lien for the recovery of such moneys; amending s. 403.4155, F.S.; requiring the department to review certain rules and determine the adequacy of the rules; providing an appropriation; providing an effective date.

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

By Senators Posey and Clary—

SB 1428—A bill to be entitled An act relating to the State Group Insurance Program; amending ss. 110.123, 287.022, F.S.; prohibiting limitations by the state on competition for an insurance product or plan on the basis of the compensation arrangement used by the insurer or organization; providing an effective date.

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

By the Committee on Finance and Taxation and Senator Carlton—

CS for SB 1540—A bill to be entitled An act relating to trust funds; creating s. 202.193, F.S.; creating the Local Communications Services Tax Clearing Trust Fund within the Department of Revenue; providing for sources of moneys and purposes; providing for annual carryforward of fund balances; providing that the trust fund is exempt from constitutional termination; providing a contingent effective date.

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

By the Committee on Finance and Taxation and Senator Carlton—

CS for SB 1576—A bill to be entitled An act relating to ad valorem tax administration; amending s. 195.096, F.S.; requiring the Department of Revenue to document and retain records used in the review of assessment rolls; amending s. 195.096, F.S., effective for the 2003 tax rolls and subsequent tax rolls; requiring the Department of Revenue to study assessment groups or market areas to assure the representativeness of ratio-study samples; amending s. 197.502, F.S.; authorizing the tax collector to contract with a title abstract company to provide information concerning property described in a tax certificate; authorizing the tax collector to pay a reasonable fee for this information; providing that the amount of any fee paid for this information must be added to the opening bid for a tax deed for the property; amending s. 200.069, F.S.; changing the presentation of independent special districts' debt-service levies on notices of proposed property taxes; amending s. 193.155, F.S.; revising provisions governing assessment of homestead property; amending s. 197.343, F.S.; changing the date for an additional tax notice; amending s. 192.0105, F.S.; conforming a cross-reference; amending s. 197.212, F.S.; increasing the allowable minimum property tax; creating the Property Tax Administration Task Force; providing purposes and membership of the task force; requiring periodic reports to the Department of Revenue; amending s. 196.1975, F.S., relating to exemptions for nonprofit homes for the aged; specifying that the exemption applicable to such homes the residents of which meet certain income limitations applies to individual units or apartments of such homes; providing for application of a residency affidavit requirement to applicants for such an exemption; clarifying provisions relating to qualification for the alternative exemption provided by that section for those portions of a home in which the residents do not meet the income limitations; providing that s. 196.195, F.S., relating to requirements and criteria for determining the profit or nonprofit status of an applicant for exemption, and s. 196.196, F.S., relating to criteria for determining whether property is entitled to a charitable, religious, scientific, or literary exemption, do not apply to that section; creating an advisory committee on property and other public facility taxation; providing purposes and membership; requiring a report; providing an appropriation; amending s. 236.25, F.S.; allowing certain school districts to levy, by referendum, additional district school taxes; providing limitations on the uses of the resulting revenues; amending s. 236.31, F.S.; providing for millage elections pursuant to s. 236.25, F.S.; amending s. 236.32, F.S.; revising the procedures for conducting school district millage elections; providing an effective date.

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

By the Committee on Natural Resources and Senator Laurent—

CS for SB 1662—A bill to be entitled An act relating to Lake Okeechobee Protection Program; amending s. 373.4595, F.S.; authorizing a line item on utility sewer rates to cover wastewater residual treatment and disposal in certain counties; providing exemption from requirements of the Public Service Commission; providing for audits; providing an effective date.

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

By the Committee on Finance and Taxation and Senator Carlton—

CS for SB 1836—A bill to be entitled An act relating to public records; amending s. 213.053, F.S.; providing an exemption from public records requirements for information contained in specified documents received by the Department of Revenue in connection with ch. 202, F.S., the Communications Services Tax Simplification Law; authorizing the department to provide certain information relative to said chapter to local governments imposing a local communications services tax; providing for application of confidentiality and penalty provisions to such local governments; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

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

By the Committees on Appropriations, Finance and Taxation and Senator Horne and others—

CS for CS for SB 1878—A bill to be entitled An act relating to tax on communications services; creating s. 202.105, F.S.; providing legislative findings and intent with respect to the Communications Services Tax Simplification Law; amending s. 202.11, F.S.; revising and providing definitions; amending s. 202.12, F.S.; specifying the rates for the state tax; revising provisions relating to application of the tax; providing for application of the tax rate to private communications services and mobile communications services; providing the initial

method for determining the sales price of private communications services and a revised method effective January 1, 2004; relieving service providers of certain liability; revising provisions relating to direct-pay permits; creating s. 202.155, F.S.; providing special rules for mobile communications services; providing duties of home service providers and the Department of Revenue in determining a customer's place of primary use and determining the correct taxing jurisdiction; relieving service providers of certain liability; providing requirements with respect to identifying and separately stating the sales price of mobile communications services not subject to the taxes administered under ch. 202, F.S.; amending s. 202.16, F.S.; revising provisions relating to responsibility for payment of taxes and tax amounts and brackets; amending s. 202.17, F.S.; specifying that registration as a dealer of communications services does not constitute registration for purposes of placing and maintaining communications facilities in municipal or county rights-of-way; removing the registration fee for such dealers; revising provisions relating to resale certificates; amending s. 202.18, F.S.; revising provisions relating to distribution of a portion of the proceeds of the tax on direct-to-home satellite service and to distribution of local communications services taxes and adjustment of such distribution; amending s. 202.19, F.S.; revising provisions which authorize imposition of local communications services taxes and provide for use of revenues and certain credits; specifying the maximum rates of such taxes; providing the initial method for determining the sales price of private communications services for local communications services taxes and for the discretionary sales surtax under s. 212.055, F.S., that is imposed as a local communications services tax, and providing a revised method effective January 1, 2004; relieving service providers of certain liabilities; revising requirements relating to the direct-pay permit required to qualify for the limitation on local communications services taxes on interstate communications services; providing for application of local communications services taxes to mobile communications services; amending s. 202.20, F.S.; specifying the local communications services tax conversion rates; revising requirements with respect to adjustment by a local government of its tax rate when tax revenues are less than received from replaced revenue sources; requiring adjustment of the tax rate if revenues received for a specified period exceed a specified threshold; authorizing local governments to increase the tax rate established by the Revenue Estimating Conference and approved by the Legislature to the maximum tax rate so established and approved; amending s. 202.21, F.S.; conforming provisions; amending s. 202.22, F.S., relating to determination of local tax situs for a local communications services tax; revising requirements relating to use of enhanced zip codes; revising requirements relating to certification or recertification of a database by the department; specifying effect when certain applications for certification are not approved or denied within the required time period; revising provisions relating to a dealer's duty to update a database and to the amount of dealer's credit allowed when an alternative method of assigning service addresses is used; amending s. 202.23, F.S.; providing requirements for refunds when excess communications services tax has been paid; creating s. 202.231, F.S.; providing requirements for provision of information by the department to local taxing jurisdictions; amending s. 202.24, F.S., relating to limitations on local taxes and fees imposed on dealers of communications services; deleting provisions relating to legislative review; repealing s. 202.26(3)(i), F.S., which provides for adoption of rules by the department with respect to collection of information no longer required; amending s. 202.27, F.S.; deleting provisions which allow certain dealers making sales in more than one location to file a single return; amending s. 202.28, F.S.; including persons collecting the gross receipts tax in provisions relating to the dealer's credit; amending s. 202.37, F.S.; providing requirements for audits conducted with respect to local communications services taxes; providing that certain persons or entities may provide evidence to the department regarding failure to report taxable sales and providing authority of the department with respect thereto; creating s. 202.38, F.S.; providing for credits or refunds under ch. 202, F.S., for certain bad debts or adjustments with respect to taxes under ch. 212, F.S., or ch. 166, F.S., billed prior to October 1, 2001, and no longer subject to tax; creating s. 202.381, F.S.; providing requirements with respect to implementation of ch. 202, F.S., and ch. 2000-260, Laws of Florida, and transition from the previous tax structure; amending s. 203.01, F.S.; specifying the rate of the gross receipts tax on communications services; amending s. 212.031, F.S.; conforming provisions; amending s. 212.054, F.S.; clarifying that a discretionary sales surtax applies to transactions taxed under ch. 202, F.S.; amending s. 212.20, F.S.; removing provisions relating to deposit of certain proceeds under ch. 212, F.S., in the Mail Order Sales Tax Clearing Trust Fund; amending ss. 11.45, 218.65, and 288.1169, F.S.; correcting references; amending s. 212.202, F.S.; renaming the Mail Order Sales Tax Clearing Trust Fund as the Communications Services Tax Clearing Trust Fund; amending s. 337.401, F.S.; revising dates for notice of election by municipalities and counties regarding imposition of permit fees to the department; providing that a municipality or county that elects not to impose permit fees on communications services providers may increase its local tax rate by resolution; requiring notice to the department; prescribing regulations governing the amounts that may be imposed by municipalities and counties against certain persons or entities in connection with the placement or maintenance of communications facilities in municipal or county roads or rights-of-way; repealing s. 337.401(3)(f) and (g), F.S., relating to the authority of municipalities and counties to request in-kind requirements from cable service providers and to negotiate cable service franchises, and revising and relocating such provisions under that section; providing relationship of provisions relating to regulation of placement or maintenance of communications facilities in public roads or rights-of-way by counties or municipalities to zoning or land use authority; providing status of registration under such provisions; authorizing municipalities and counties to change their election regarding imposition of permit fees and providing for adjustment of tax rates; providing notice requirements; revising definitions; specifying continued application of s. 166.234, F.S., relating to administration and rights and remedies, to municipal public service taxes on telecommunications services imposed prior to October 1, 2001; providing for payment of franchise fees by cable or telecommunications service providers with respect to services provided prior to October 1, 2001; providing for severability; repealing s. 52 of ch. 2000-260, Laws of Florida, which provides for a legislative study during the 2001 session; repealing s. 58(1) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of those administrative sections of ch. 202, F.S., which have taken effect; repealing s. 58(2) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of the following provisions prior to their October 1, 2001, effective date: the remainder of ch. 202, F.S., which provides for the taxation of the sale of communications services; other statutory amendments which provide related administrative provisions; provisions which remove levy of the municipal public service tax on telecommunication services; provisions which provide for a gross receipts tax on communications services to be applied pursuant to ch. 202, F.S.; provisions which remove the imposition of tax under ch. 212, F.S., on telecommunication service; provisions relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees; and provisions relating to the application of amendments made by ch. 2000-260, Laws of Florida; repealing s. 59 of ch. 2000-260, Laws of Florida, which, effective June 30, 2001, amends s. 337.401, F.S., relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees, to remove amendments made by ch. 2000-260, Laws of Florida, which took effect January 1, 2001; providing effective dates.

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

By the Committee on Agriculture and Consumer Services and Senator Geller—

CS for SB 1922—A bill to be entitled An act relating to agriculture and consumer services; amending s. 121.0515, F.S., relating to special risk membership; revising criteria for firefighters; amending s. 120.80, F.S.; providing that marketing orders under ch. 527, F.S., are not rules; amending s. 125.27, F.S.; authorizing the Department of Agriculture and Consumer Services to lease or lend equipment to governmental entities that have fire/rescue responsibilities; limiting liability for civil

damages resulting from use or possession of such equipment; amending s. 193.461, F.S.; providing that, for purposes of the income methodology approach to such assessment, certain litter containment and animal waste nutrient containment structures shall be considered a part of the average yields per acre and have no separately assessable contributory value; amending s. 201.15, F.S.; authorizing the department to adopt rules regarding the distribution of funds for best management practices; amending s. 316.228, F.S.; revising requirements for lamps on projecting loads; amending s. 320.08, F.S.; redefining the term "goat" to include certain additional farm equipment for purposes of the annual license tax imposed on trucks; amending s. 403.714, F.S.; deleting a requirement that the department coordinate development of uniform product specifications for compost used by state agencies; amending s. 487.041, F.S.; authorizing the department to require and review data relating to the claims of pesticide products used as preventive treatment for termites; authorizing the department to adopt rules; amending s. 500.09, F.S.; authorizing fees for certain reinspection of food establishments; amending s. 500.12, F.S.; increasing the maximum fee for a food permit; limiting the use of such fees; amending ss. 502.012, 502.014, F.S.; revising references relating to the pasteurized milk ordinance and milk sanitation; deleting a requirement that a copy of a federal temporary marketing permit for milk and milk products be forwarded to the department; amending s. 502.053, F.S.; clarifying milk testing requirements; amending s. 502.091, F.S.; authorizing the department to forgo the grading of certain milk products in an emergency; providing for labeling; amending s. 503.041, F.S.; providing that an attempted or purported transfer of a frozen dessert plant license is grounds for its suspension or revocation; repealing ss. 504.21, 504.22, 504.23, 504.24, 504.25, 504.26, 504.27, 504.28, 504.29, 504.31, 504.32, 504.33, 504.34, 504.35, 504.36, F.S.; eliminating the Florida Organic Farming and Food Law; providing an effective date; repealing ss. 536.20, 536.21, 536.22, F.S., relating to timber and lumber; repealing s. 570.381, F.S., relating to Appaloosa racing; amending ss. 550.2625, 550.2633, F.S.; conforming cross-references; amending s. 570.07, F.S.; authorizing the department to conduct investigations of violations of laws relating to consumer protection; amending s. 503.071, F.S.; providing for the embargo, detainment, or destruction of food or food processing equipment of a frozen dessert manufacturer; amending s. 570.244, F.S.; clarifying powers and duties of the department relating to the development of agribusinesses; amending s. 570.249, F.S.; clarifying aquacultural crops eligible for Agricultural Economic Development Program disaster loans; revising loan application requirements; directing the department to establish an agribusiness market development grant program; amending s. 570.38, F.S.; increasing membership of the Animal Industry Technical Council; amending s. 580.031, F.S.; revising definitions; amending s. 580.051, F.S.; revising label requirements for feed; amending s. 580.065, F.S.; revising feed laboratory procedures; amending s. 580.091, F.S.; removing intent language regarding feed sampling and analysis; amending s. 580.112, F.S.; expanding prohibited acts; amending s. 581.211, F.S.; providing a penalty for violation of rules relating to plant industry; amending s. 585.145, F.S.; prescribing requirements with respect to veterinarians who may inspect animals for disease; amending s. 585.155, F.S.; revising vaccination requirements for calves; amending s. 589.19, F.S.; naming a state forest; amending s. 616.242, F.S.; providing additional exemptions from amusement ride safety standards; amending s. 828.22, F.S.; creating the "Humane Slaughter Act"; revising provisions relating to humane slaughter and livestock euthanasia; amending s. 828.23, F.S.; revising definitions; amending s. 828.24, F.S.; revising provisions relating to prohibited acts; amending s. 828.25, F.S.; revising provisions relating to administration of the act by the department; creating s. 828.251, F.S.; directing the department to make current technical information available to slaughterers; creating s. 828.252, F.S.; providing for humane treatment of nonambulatory animals; amending s. 828.26, F.S.; revising penalties; amending ss. 427.804, 559.921, F.S.; conforming cross-references; creating s. 604.60, F.S.; providing that certain agricultural growers or producers shall have a right to recover damages as a result of willful and knowing damage or destruction of specified agricultural products; providing considerations and limits in award of damages; providing for costs and attorney's fees; amending s. 810.09, F.S.; prohibiting trespass upon specified legally posted agricultural sites; providing a penalty; reenacting ss. 260.0125(5)(b) and 810.011(5)(b), F.S., to incorporate the amendment to s. 810.09, F.S., in references thereto; repealing s. 570.544(10) and (11), F.S., relating to authority of the Division of Consumer Services of the department to conduct investigations of violations of laws relating to consumer protection; creating s. 373.621, F.S.; providing consideration for certain applicants who implement water conservation practices; amending section 601.48, F.S.; eliminating provisions relating to inspection of processed citrus products for grade and subsequent grading and designation thereof; authorizing the Florida Department of Citrus or its successor, to collect dues, contributions, or any other financial payment upon request by and on behalf of any not-for-profit corporation; amending s. 232.246, F.S.; authorizing Agriscience Foundations I to count as a science credit; providing an effective date; abolishing specified authorities and councils advisory to the department; creating s. 570.085, F.S.; creating an agricultural water conservation program within the department; designating the official citrus archive of Florida; providing for severability; requiring the Department of Agriculture and Consumer Services to administer a residential citrus canker compensation program; providing for sources of funds; providing for homeowners to receive compensation for citrus trees removed on or after a specified date as part of a citrus canker eradication program; providing eligibility criteria for receiving compensation; specifying the amount of compensation provided under the program, subject to availability of funds; requiring that the department notify homeowners of the program and develop a dispute-resolution process; creating the "Rural and Family Lands Protection Act"; defining terms; creating s. 570.70, F.S.; providing legislative intent; creating s. 570.71, F.S.; providing for the purchase of rural-lands-protection easements by the Department of Agriculture and Consumer Services; providing criteria; providing for resource conservation agreements and agricultural protection agreements; prescribing allowable land uses; providing for an application process; providing for the sale of an easement; requiring the department to adopt rules; authorizing the use of specified funds; authorizing the removal of property from lists and maps; providing for the deposit of funds; directing the completion of a needs assessment and a report; amending s. 163.3177, F.S.; directing the department to authorize up to five local governments to designate rural land stewardship areas; requiring a written agreement; providing requirements for comprehensive plan amendments for such designations; providing that owners of land within such areas may convey development rights in return for the assignment of transferable rural land use credits; providing requirements with respect to such credits; specifying incentives that should be provided such landowners; requiring reports; providing intent; providing effective dates.

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

By the Committee on Comprehensive Planning, Local and Military Affairs and Senators Posey and Klein—

CS for SB 2220—A bill to be entitled An act relating to governmental data processing; creating s. 119.084, F.S.; providing definitions; authorizing governmental agencies to acquire, hold, and enforce copyrights for data processing software they create; authorizing sale or license of such software; authorizing establishment of sales price and licensing fee; providing requirements for electronic recordkeeping systems; providing for access to public records maintained in electronic recordkeeping systems; providing for fees to be charged for copying public records maintained in electronic recordkeeping systems; prohibiting contracts for public records databases that impair public access to public records; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

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

Reports of Councils and Standing Committees

Report of the Procedural & Redistricting Council

The Honorable Tom Feeney May 1, 2001
Speaker, House of Representatives

Mr. Speaker:

Pursuant to Special Rule 01-11, your Procedural & Redistricting Council herewith submits as a Third Reading Calendar for Wednesday, May 2, 2001. Consideration of the House Bills on the Third Reading Calendar shall include the Senate Companion Measures on the House Calendar.

I. Consideration of the following bill(s):
CS/CS/HB 267—Kravitz
School Attendance/Violent Offenders
CS/HB 337—Garcia
Public Libraries
CS/HB 345—Johnson
Sports Industry Economic Development
CS/HB 455—Detert
Mortgage Brokers & Lenders
HB 457—Lee
Property & Casualty Insurers
HB 575—Baker
Filing Fees/Corporate Fee
CS/HB 605—Gibson
Florida Alzheimer's Training Act
HB 635—Hart
Drivers' Licenses/Selective Service
HB 645—Henriquez
Alcoholic Beverages/Nonprofit Orgs.
CS/CS/HB 807—Gardiner
Hwy. Safety/Motor Vehicles/Vessels
HB 953—Crime Prevention, Corrections & Safety (HCC)
Burglary
CS/HB 973—Davis
Property Tax/Disabled/Physicians
CS/CS/HB 1053—Russell
Transportation
CS/HB 1219—Brown
Insurance Agents
CS/HB 1263—Dockery
Mining
HB 1379—Flanagan
Emergency Telephone System
HB 1415—Kallinger
Medicaid/Environmental Modification
HB 1491—Attkisson
Lake Okeechobee Protection Program
HB 1545—Education Appropriations (FRC)
Schools/Performance Reporting
HB 1863—Health Regulation (HCC)
Onsite Sewage Treatment & Disposal
HB 1971—Natural Resources & Environmental Protection (RIC)
Water Supply Policy
SB 150—Horne
Property Exempt from Legal Process
CS/SB 178—Brown-Waite
Duration of Real Property Liens
CS/SB 252—King
Law Officer/Background Investigation
SB 272—Klein
Law Enforcement Officers
SB 654—Saunders
Pharmacists/Licensure by Endorsement
SB 782—Sanderson
Nursing Education
CS/SB 838—Saunders
Landlord & Tenant
CS/CS/SB 1258—Mitchell
Behavioral Health Services
SB 1424—Posey
Real Estate Professionals
SB 810—Laurent
Municipal Law Enforcement Officers
CS/CS/HB 1533—Lynn
Education Governance Reorganization
(Special Rule 01-14)
CS/CS/SB 108—Geller
Structured Settlements/Transfers
HB 731—Kottkamp
Public Records/Local Government/WMD
CS/SB 1524—Constantine
Comprehensive Everglades Restoration
HB 1513—Simmons
Insurance Competitions/Compensations
CS/HB 1529—Simmons
Controlled Substances
CS/CS/CS/SB 1202—Brown-Waite
Long-term-care Facilities
HB 1915—Agriculture & Consumer Affairs (CCC)
Agric. & Consumer Services Dept.
CS/HB 1819—Insurance (CCC)
Insurance/Public Records Illegal Use
HB 159—Rubio
Health Maintenance Organizations
SB 1400—Posey
Swimming Pool/Spa Service Contractor
CS/SB 684—Cowin
Organ Transplantation
CS/CS/SB 870—Webster
Construction/Prompt Payment Act
CS/SB 972—Bronson
Water Mgmt. District Fiscal Matters
CS/CS/HB 1121—Byrd
Driver Licenses/Co. Tax Collectors
CS/HB 1889—Utilities & Telecommunications (RIC)
Taxation/Communications Services
CS/HB 1891—Utilities & Telecommunications (RIC)
Public Records/Communications Tax
CS/HB 1893—Utilities & Telecommunications (RIC)
Local Communications Services Tax TF
HB 1867—Health Regulation (HCC)
Health Care Practitioner Regulation
HB 25—Crow
Offenses Against Children
CS/HB 83—Russell
Enterprise Zone Designations
CS/HB 93—Harrington
Road & Bridge Designations
HB 163—Prieguez
Tax/College Games/College Facility
CS/CS/HB 179—Lynn
Child Care Facilities
CS/HB 281—Alexander
Higher Educational Facilities
CS/HB 365—Hogan
Public Records/Health/Financial Info
CS/CS/HB 453—Prieguez
Energy Performance Savings
CS/HB 463—Baxley
Florida Prepaid College Program
HB 509—Attkisson
Relief/Hopkins & Bowman
CS/CS/HB 617—Harper
Youthful Offenders
CS/HB 623—Mack
Government Accountability
HB 649—Bilirakis
Law Enforcement Officers' Disability
CS/HB 699—Goodlette

Rural Electric Cooperatives
HB 701—Bean
Correctional Officers Memorial Hwy.
CS/CS/HB 719—Stansel
Agri. Products/Damage or Destruction
CS/CS/HB 721—Stansel
Public Records/Agricultural Records
CS/HB 729—Argenziano
Environmental Control
HB 749—Dockery
Absentee Ballots
CS/HB 789—Mealor
Governmental Data Processing
CS/HB 793—Hogan
Elderly Persons & Disabled Adults
HB 959—Gottlieb
Mortgages
CS/HB 997—Littlefield
Spinal Cord Injuries/Pilot Program
CS/HB 1131—Barreiro
Criminal Rehabilitation
CS/HB 1133—Brutus
Correctional Work Programs/Operation
CS/HB 1189—Diaz-Balart
Brownfield Redevelopment Incentives
HB 1221—Cantens
Water Resources
HB 1395—Crime Prevention, Corrections & Safety (HCC)
Driver Lic. Div./Exclusionary Rule
HB 1439—Berfield
Health Insurance
HB 1471—Alexander
Food Service Employee Training
HB 1485—Kravitz
Sexual Offenders Release Supervision
CS/HB 1541—Economic Development & International Trade (CCC)
Public Records/Economic Development
HB 1585—Detert
Public Records/Abandoned Property
HB 1611—Arza
Relief/Mary Beth Wiggers/DOC
CS/HB 1617 & 1487—Dockery
Growth Management
HB 1669—Paul
Harris Chain of Lakes Restoration
HB 1681—Miller
Pest Control Operators
HB 1787—Berfield
Warranty Associations/Motor Vehicles
HB 1799—Child & Family Security (HCC)
Children's Behavioral Crisis Unit
HB 1861—Elder & Long-Term Care (HCC)
Quality of Long-Term Care Facility
HB 1881—Elder & Long-Term Care (HCC)
Public Records/Nursing Homes
HB 1885—Health Promotion (HCC)
Health Care
HB 1961—Fiscal Policy & Resources (FRC)
Sales Tax/State Tax Policy
HB 1973—Fiscal Policy & Resources (FRC)
State Debt
HB 1983—Fiscal Policy & Resources (FRC)
Ad Valorem Tax Administration
CS/SB 94—Laurent
Consumer Collection Practices
SB 130—Silver
Eminent Domain/Public School Purpose
CS/SB 202—Lee
Malt Beverages/Container Size
CS/SB 232—Brown-Waite
Controlled Substances/Hydrocodone
SB 338—Campbell
Bryant Peney Act
CS/SB 350—Dawson
Individual Development Accounts
CS/CS/SB 400—Horne
Support of Dependents
CS/CS/CS/SB 446—Constantine
Homelessness
SB 676—Smith
Prison Releasee Reoffender
SB 720—Carlton
Criminal Records/Obscene Materials
SB 766—Sanderson
Driver's Licenses/DUI Convictions
CS/SB 800—Silver
Disposition of Traffic Fines
CS/SB 806—Laurent
Insurance Examination/Exemptions
CS/SB 1018—Pruitt
Young Children/Learning Gateway
SB 1126—Latvala
Nonprofit Civic Organization/Alcohol
CS/CS/SB 1180—Pruitt
Scholarships/Students/Disabilities
SB 1516—Constantine
Surety Bonds
CS/CS/CS/SB 1526 & 314—Constantine
Money Transmitter's Code
CS/CS/SB 1672—Lee
Passport to Economic Progress Act
CS/SB 1788—Wasserman Schultz
Dentistry
SB 1986—Sanderson
Public Employees/Volunteers/Ins.
HB 1977—Fiscal Responsibility Council
State Planning & Budgeting

II. Special Order:
CS/SB 1012—Garcia
Energy Performance Savings
CS/SB 1366—Cowin
Property Tax/Permanently Disabled
CS/SB 1932—Laurent
Drug Traffic Program/Orange Co.
SB 2308—Cowin
South Lake County Hospital District
CS/SB 302—Pruitt
Higher Educational Facilities
CS/SB 322—Geller
Disposition of Offenders
CS/CS/SB 374—Carlton
Elderly & Disabled/Public Guardians
CS/SB 444—Latvala
Offenses Against Children
CS/CS/SB 668—Carlton
Enterprise Zones
CS/SB 840—Saunders
Public Records/Health/Financial Info
CS/SB 890—Campbell
Mortgages
SB 1162—Sebesta
Florida Prepaid College Program
SB 1324—Peaden
Health Care/Alternative Treatment
CS/SB 2034—Latvala
Rural Electric Cooperatives
CS/CS/SB 2092—Sanderson
Health Care
SB 2240—Garcia
Warranty Associations/Motor Vehicles

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

Respectfully submitted,
Johnnie B. Byrd, Jr.
Chair

Waiver of the Rules for Committee and Council Meetings and Bills

On motion by Rep. Smith, the rules were waived and the Procedural & Redistricting Council was given permission to meet today, 15 minutes after adjournment of the House for its scheduled midday recess.

On motion by Rep. Byrd, the rules were waived and **HB 1933**, **HB 1713**, **HB 1947**, **CS/HB 371**, **HJR 571**, **CS/HB 135**, **HB 1883**, **CS/HB 1255**, **HB 1923**, **HB 1099**, **HB 1789**, **HB 561**, **HB 829**, **HB 831**, **HB 835**, **HB 837**, **HB 843**, **HB 869**, **HB 899**, **HB 923**, **HB 933**, **HB 935**, **HB 1849**, and **HB 607** were added to the beginning of the Special Order Calendar.

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

Motions Relating to Committee or Council References

On motion by Rep. Byrd, agreed to by two-thirds vote, HB 607 was withdrawn from the Procedural & Redistricting Council and placed on the Special Order Calendar after HB 1849.

On motion by Rep. Byrd, the House moved to the consideration of CS for CS for CS for SB 1202 on Bills and Joint Resolutions on Third Reading.

Bills and Joint Resolutions on Third Reading

CS for CS for CS for SB 1202—A bill to be entitled An act relating to long-term care; amending s. 400.0073, F.S.; clarifying duties of the local ombudsman councils with respect to inspections of nursing homes and long-term-care facilities; amending s. 400.021, F.S.; defining the terms "controlling interest" and "voluntary board member" and revising the definition of "resident care plan" for purposes of part II of ch. 400, F.S., relating to the regulation of nursing homes; requiring the Agency for Health Care Administration and the Office of the Attorney General to study the use of electronic monitoring devices in nursing homes; requiring a report; amending s. 400.023, F.S.; providing for election of survival damages, wrongful death damages, or recovery for negligence; providing for attorney's fees for injunctive relief or administrative remedy; providing that ch. 766, F.S., does not apply to actions under this section; providing burden of proof; providing that a violation of a right is not negligence per se; prescribing the duty of care; prescribing a nurse's duty of care; eliminating presuit provisions; eliminating the requirement for presuit mediation; creating s. 400.0233, F.S; providing for presuit notice; prohibiting the filing of suit for a specified time; requiring a response to the notice; tolling the statute of limitations; limiting discovery of presuit investigation documents; limiting liability of presuit investigation participants; authorizing the obtaining of opinions from a nurse or doctor; authorizing the obtaining of unsworn statements; authorizing discovery of relevant documents; prescribing the time for acceptance of settlement offers; requiring mediation; prescribing the time to file suit; creating s. 400.0234, F.S.; requiring the availability of facility records for presuit investigation; specifying the records to be made available; specifying what constitutes evidence of failure to make records available in good faith; specifying the consequences of such failure; creating s. 400.0235, F.S.; providing that the provisions of s. 768.21(8), F.S., do not apply to actions under part II of ch. 400, F.S.; creating s. 400.0236, F.S.; providing a statute of limitations; providing a statute of limitations when there is fraudulent concealment or intentional misrepresentation of fact; providing for application of the statute of limitation to accrued actions; creating s. 400.0237, F.S.; requiring evidence of the basis for punitive damages; prohibiting discovery relating to financial worth; providing for proof of punitive damages; defining the terms "intentional misconduct" and "gross negligence"; prescribing criteria governing employers' liability for punitive damages; providing for the remedial nature of provisions; creating s. 400.0238, F.S.; prescribing limits on the amount of punitive damages; providing for a criminal investigation with a finding of liability for punitive damages under certain circumstances; providing for the admissibility of findings in subsequent civil and criminal actions; providing for the calculation of attorney's fees; amending s. 768.735, F.S.; providing that the section is inapplicable to actions brought under ch. 400, F.S.; amending s. 415.1111, F.S.; limiting actions against nursing homes and assisted living facilities; amending s. 400.0255, F.S.; providing for applicability of provisions relating to transfer or discharge of nursing home residents; amending s. 400.062, F.S.; increasing the bed license fee for nursing home facilities; amending s. 400.071, F.S.; revising license application requirements; requiring certain disclosures; authorizing the Agency for Health Care Administration to issue an inactive license; requiring quality assurance and risk-management plans; amending s. 400.102, F.S.; providing additional grounds for action by the agency against a licensee; amending s. 400.111, F.S.; prohibiting renewal of a license if an applicant has failed to pay certain fines; requiring licensees to disclose financial or ownership interests in certain entities; authorizing placing fines in escrow; amending s. 400.118, F.S.; revising duties of quality-of-care monitors in nursing facilities; amending s. 400.121, F.S.; specifying additional circumstances under which the agency may deny, revoke, or suspend a facility's license or impose a fine; authorizing placing fines in escrow; requiring that the agency revoke or deny a nursing home license under specified circumstances; providing standards for administrative proceedings; providing for the agency to assess the costs of an investigation and prosecution; specifying facts and conditions upon which administrative actions that are challenged must be reviewed; amending s. 400.126, F.S.; requiring an assessment of residents in nursing homes under receivership; providing for alternative care for qualified residents; amending s. 400.141, F.S.; providing additional administrative and management requirements for licensed nursing home facilities; requiring a facility to submit information on staff-to-resident ratios, staff turnover, and staff stability; requiring that certain residents be examined by a licensed physician; providing requirements for dining and hospitality attendants; requiring additional reports to the agency; requiring minimum amounts of liability insurance coverage; requiring daily charting of specified certified nursing assistant services; creating s. 400.1413, F.S.; authorizing nursing homes to impose certain requirements on volunteers; creating s. 400.147, F.S.; requiring each licensed nursing home facility to establish an internal risk management and quality assurance program; providing requirements of the program; requiring the use of incident reports; defining the term "adverse incident"; requiring that the agency be notified of adverse incidents; requiring reporting of liability claims; specifying duties of the internal risk manager; requiring the reporting of sexual abuse; limiting the liability of a risk manager; requiring that the agency report certain conduct to the appropriate regulatory board; requiring that the agency annually report to the Legislature on the internal risk management of nursing homes; creating s. 400.148, F.S.; providing for a pilot project to coordinate resident quality of care through the use of medical personnel to monitor patients; providing purpose; providing for appointment of guardians; creating s. 400.1755, F.S.; prescribing training standards for employees of nursing homes that provide care for persons with Alzheimer's disease or related disorders; prescribing duties of the Department of Elderly Affairs; amending s. 400.19, F.S.; requiring the agency to conduct surveys of certain facilities cited for deficiencies; providing for a survey fine; providing for inspections; amending s. 400.191, F.S.; requiring the agency to publish a Nursing Home Guide Watch List; specifying contents of the watch list; specifying distribution of the watch list; requiring that nursing homes post certain additional information; amending s. 400.211, F.S.; revising employment requirements for nursing assistants; requiring in-service training; amending s. 400.23, F.S.; revising minimum staffing requirements for nursing homes; requiring the documentation and posting of compliance with such standards; requiring correction of deficiencies prior to change in conditional status; providing definitions of deficiencies; adjusting the fines imposed for certain deficiencies; amending s. 400.235, F.S.; revising requirements for the Gold Seal Program; creating s. 400.275, F.S.; providing for training of nursing-home survey teams; amending s. 400.407, F.S.; revising certain licensing requirements; providing for the biennial license fee to be based on number of beds; amending s. 400.414,

F.S.; specifying additional circumstances under which the Agency for Health Care Administration may deny, revoke, or suspend a license; providing for issuance of a temporary license; amending s. 400.419, F.S.; increasing the fines imposed for certain violations; creating s. 400.423, F.S.; requiring certain assisted living facilities to establish an internal risk management and quality assurance program; providing requirements of the program; requiring the use of incident reports; defining the term "adverse incident"; requiring that the agency be notified of adverse incidents and of liability claims; requiring reporting of liability claims; specifying duties of the internal risk manager; requiring that the agency report certain conduct to the appropriate regulatory board; requiring that the agency annually report to the Legislature on the internal risk management of assisted living facilities; amending s. 400.426, F.S.; requiring that certain residents be examined by a licensed physician; amending s. 400.429, F.S.; providing for election of survival damages, wrongful death damages, or recovery for negligence; providing for attorney's fees for injunctive relief or administrative remedy; providing that ch. 766, F.S., does not apply to actions under this section; prescribing the burden of proof; providing that a violation of a right is not negligence per se; prescribing the duty of care; prescribing a nurse's duty of care; eliminating presuit provisions; eliminating the requirement for presuit mediation; requiring copies of complaints filed in court to be provided to the agency; creating s. 400.4293, F.S; providing for presuit notice; prohibiting the filing of suit for a specified time; requiring a response to the notice; tolling the statute of limitations; limiting the discovery of presuit investigation documents; limiting liability of presuit investigation participants; authorizing the obtaining of opinions from a nurse or doctor; authorizing the obtaining of unsworn statements; authorizing discovery of relevant documents; prescribing a time for acceptance of settlement offers; requiring mediation; prescribing the time to file suit; creating s. 400.4294, F.S.; requiring the availability of facility records for presuit investigation; specifying the records to be made available; specifying what constitutes evidence of failure to make records available in good faith; specifying the consequences of such failure; creating s. 400.4295, F.S.; providing that the provisions of s. 768.21(8), F.S., do not apply to actions under part III of ch. 400, F.S.; creating s. 400.4296, F.S.; providing a statute of limitations; providing a statute of limitations when there is fraudulent concealment or intentional misrepresentation of fact; providing for application of the statute of limitation to accrued actions; creating s. 400.4297, F.S.; requiring evidence of the basis for punitive damages; prohibiting discovery relating to financial worth; providing for proof of punitive damages; defining the terms "intentional misconduct" and "gross negligence"; prescribing criteria governing employers' liability for punitive damages; providing for the remedial nature of provisions; creating s. 400.4298, F.S.; providing limits on the amount of punitive damages; providing for a criminal investigation with a finding of liability for punitive damages under certain circumstances; providing for the admissibility of findings in subsequent civil and criminal actions; providing for the calculation of attorney's fees; amending s. 400.434, F.S.; authorizing the Agency for Health Care Administration to use information obtained by certain councils; amending s. 400.441, F.S.; clarifying facility inspection requirements; creating s. 400.449, F.S.; prohibiting the alteration or falsification of medical or other records of an assisted living facility; providing penalties; amending s. 409.908, F.S.; prohibiting nursing home reimbursement rate increases associated with changes in ownership; modifying requirements for nursing home cost reporting; requiring a report; amending s. 464.203, F.S.; revising certification requirements for nursing assistants; authorizing employment of certain nursing assistants pending certification; requiring continuing education; amending s. 397.405, F.S., relating to service providers; conforming provisions to changes made by the act; prohibiting the issuance of a certificate of need for additional nursing home beds; providing intent for such prohibition; reenacting s. 400.0255(3), (8), F.S., relating to discharge or transfer of residents; reenacting s. 400.23(5), F.S., relating to rules for standards of care for persons under a specified age residing in nursing home facilities; reenacting s. 400.191(2), (6), F.S., relating to requirements for providing information to consumers; reenacting s. 400.0225, F.S., relating to consumer satisfaction surveys for nursing homes; reenacting s. 400.141(4), (5), F.S., relating to the repackaging of residents' medication and access to other health-related services; reenacting s. 400.235(3)(a), (4), (9), F.S., relating to designation under the nursing home Gold Seal Program; reenacting s. 400.962(1), F.S., relating to the requirement for licensure under pt. IX of ch. 400, F.S.; reenacting s. 10 of ch. 2000-350, Laws of Florida, relating to requirements for a study of the use of automated medication-dispensing machines in nursing facilities and for demonstration projects and a report; amending s. 627.351, F.S.; creating the Senior Care Facility Joint Underwriting Association; defining the term "senior care facility"; requiring that the association operate under a plan approved by the Department of Insurance; requiring that certain insurers participate in the association; providing for a board of governors appointed by the Insurance Commissioner to administer the association; providing for terms of office; providing requirements for the plan of operation of the association; requiring that insureds of the association have a risk-management program; providing procedures for offsetting an underwriting deficit; providing for assessments to offset a deficit; providing that a participating insurer has a cause of action against a nonpaying insurer to collect an assessment; requiring the department to review and approve rate filings of the association; amending s. 400.562, F.S.; revising requirements for standards to be included in rules implementing part V of ch. 400, F.S.; providing for applicability of specified provisions of the act; providing appropriations; providing for severability; providing effective dates.

—was read the third time by title.

Motion to Reconsider

Rep. Frankel moved that the House reconsider the vote by which **Amendment 1** to **CS for CS for CS for SB 1202** was adopted on May 1 (shown in the *Journal* on pages 1450-1478), which was not agreed to by the required two-thirds vote.

Rep. Ryan moved that an amendment (953807) to CS for CS for CS for SB 1202 be allowed for consideration, which was not agreed to. The vote was:

Session Vote Sequence: 331

Yeas—39

Ausley	Gelber	Justice	Ryan
Bendross-Mindingall	Gibson	Kosmas	Seiler
Betancourt	Gottlieb	Lee	Siplin
Bucher	Greenstein	Lerner	Slosberg
Bullard	Harper	McGriff	Smith
Cusack	Henriquez	Peterman	Sobel
Davis	Heyman	Rich	Weissman
Fields	Holloway	Richardson	Wilson
Frankel	Jennings	Romeo	Wishner
Gannon	Joyner	Ross	

Nays—74

The Chair	Byrd	Hart	Melvin
Alexander	Cantens	Hogan	Miller
Allen	Carassas	Johnson	Murman
Andrews	Crow	Jordan	Needelman
Arza	Detert	Kallinger	Negron
Attkisson	Diaz de la Portilla	Kendrick	Paul
Atwater	Diaz-Balart	Kilmer	Pickens
Baker	Dockery	Kottkamp	Prieguez
Ball	Farkas	Kravitz	Rubio
Barreiro	Fasano	Kyle	Russell
Baxley	Fiorentino	Lacasa	Simmons
Bean	Flanagan	Littlefield	Sorensen
Bennett	Garcia	Lynn	Spratt
Bense	Gardiner	Machek	Stansel
Benson	Goodlette	Mack	Trovillion
Berfield	Green	Mahon	Wallace
Bowen	Haridopolos	Mayfield	Waters
Brown	Harrell	Maygarden	
Brummer	Harrington	Mealor	

Votes after roll call:
Yeas—Meadows, Wiles

The question recurred on the passage of CS for CS for CS for SB 1202. The vote was:

Session Vote Sequence: 332

Yeas—112

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

Nays—8

Argenziano	Frankel	Gottlieb	Lee
Bucher	Gelber	Heyman	Sobel

Votes after roll call:
Yeas to Nays—Diaz de la Portilla

So the bill passed, as amended, and was immediately certified to the Senate.

Explanations of Vote

I voted no on CS for CS for CS for SB 1202 because although the bill improves the standards of care afforded seniors in nursing homes, it also contains provisions that protects from civil liability the most egregious abusers of seniors. Specifically, the provision in the bill that requires that nursing home facilities actually know of their employees' abuses encourages the management of nursing homes to look the other way and ignore the misconduct of their employees. Furthermore, the bill makes it almost impossible to hold a nursing home liable when their employees do abuse or neglect their residents. I believe our constituents expected more, and I know we could have done better.

Rep. Dan Gelber
District 106

I voted no on the "Reform of Long Term Care Facilities" bill because it was disguised change in some areas of industry standards and limited reform in other areas of patient rights. Legitimate reform, desperately needed, was not achieved. Under the guise of reform, we failed to meet the needs of both the industry and patients under their care. Raising the standards of "staff to patient" ratio; responsible funding to assure greater "direct care" time; whistleblower protection provisions; consequences for improper/inadequate staffing, were some of the critical issues addressed at a minimum, or not at all. This legislative body is empowered as lawmakers to reduce the burdens placed on the nursing homes and living facilities and provide greater protection and better care for those people they are responsible for. This bill made changes, clearly not enough and clearly short of legitimate reform to enhance patient/resident quality of care.

Rep. Sally Heyman
District 105

Today, the House took a positive step to improving the financial stability of Florida's nursing homes. I am pleased to support these efforts. However, I believe there are three major issues that we must address. First, I am uncomfortable with many provisions of this bill that lump together the large, self-insured for-profit nursing homes with the non-profit Continuing Care Retirement Communities (CCRC) that are truly placed at a financial disadvantaged by skyrocketing liability insurance rates. Many non-profit CCRC's, like Vicars Landing in St. Johns County, could be used as models for the type of residential long term care that Florida needs to encourage. They have a perfect record that may yet lose their insurance, and that is wrong. Also, I am not satisfied with the quality of care standards in this legislation. While the bill marks an improvement in staffing levels and pay, I believe that we could have reduced the tax cut and increased Medicaid reimbursement to make better staffing a state priority. Florida is not solely at fault for the current nursing home crisis. Congress must reconsider the long-term care reimbursement cuts that occurred with the 1997 Balanced Budget Act which exacerbated financial difficulties of many homes.

Rep. Doug Wiles
District 20

On motion by Rep. Byrd, the rules were waived and the House moved to the order of—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate returns as requested CS/HB 41.

Faye W. Blanton, Secretary

CS/HB 41—A bill to be entitled An act relating to water and wastewater systems; repealing s. 13 of ch. 2000-350, Laws of Florida, which requires county rate proceedings to follow certain provisions of the Administrative Procedure Act; amending s. 350.0611, F.S.; requiring the Public Counsel to provide legal representation in proceedings before counties under certain circumstances; recovery of rate case expenses; providing an effective date.

Reconsideration

On motion by Rep. Argenziano, the House reconsidered the vote by which **CS/HB 41**, as amended, passed on April 3.

The question recurred on passage of CS/HB 41.

Representative(s) Argenziano offered the following:

(Amendment Bar Code: 954629)

Amendment 3 (with title amendment)—On page 1, lines 15 and 16,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 1. Subsection (8) of section 367.171, Florida Statutes, is amended to read:

367.171 Effectiveness of this chapter.—

(8) Each county which is excluded from the provisions of this chapter shall regulate the rates of all utilities in that county which would otherwise be subject to regulation by the commission pursuant to s. 367.081(1), (2), (3), and (6). The county shall not regulate the rates or charges of any system or facility which would otherwise be exempt from commission regulation pursuant to s. 367.022(2). For this purpose the

county or its agency shall proceed as though the county or agency is the commission. ~~In all proceedings conducted by a county or its agency under the authority of this chapter, the provisions of ss. 120.569 and 120.57 shall apply.~~

And the title is amended as follows:

On page 1, lines 3 and 4,
remove from the title of the bill: all of said lines

and insert in lieu thereof: systems; amending s. 367.171, F.S.; deleting the requirement that county rate

Rep. Argenziano moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/HB 41. The vote was:

Session Vote Sequence: 333

Yeas—119

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

Nays—None

Votes after roll call:
Yeas—Rich

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Byrd, the rules were waived and **SCR 2106**, and **SB 2308** were added to the beginning of the Special Order Calendar.

On motion by Rep. Byrd, the House moved to the consideration of SCR 2106 on Special Orders.

Special Orders

Special Order Calendar

SCR 2106—A concurrent resolution naming the legislative clinic in honor of Dr. Edward G. Haskell, Jr.

WHEREAS, Dr. Edward G. Haskell, Jr., founded the concept of health care for stressed-out, time-pressed legislators by voluntarily serving their health care needs during sessions of the Legislature in the mid and late 1960's, and

WHEREAS, Dr. Haskell was the philosophical designer of the concept of a legislative clinic and the "Doctor for the Day" program during legislative sessions, and

WHEREAS, the first legislative clinic opened early in 1967 in an unused portion of a supply room serving the Florida House of Representatives, and

WHEREAS, a terrible outbreak of influenza in 1967 and the passage of Senate Bill 135-X, Extraordinary Session, January 29, 1968, to February 16, 1968 which created the Joint Legislative Management Committee, combined to make a permanent fixture of the legislative clinic, and

WHEREAS, in the first few years of its existence, Dr. Haskell offered invaluable assistance to the clinic and its patients by lending his time, advice, and prescription support, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

That the legislative clinic, established in 1967, is named the "Dr. Ed Haskell Legislative Clinic."

BE IT FURTHER RESOLVED that the members of the 2001 Legislature of the State of Florida express their gratitude to Dr. Edward G. Haskell, Jr., for his pioneering leadership and unselfish contributions to the health of colleagues of the past and for his perseverance in helping to establish the legislative clinic.

—was read the second time by title. On motion by Rep. Melvin, the concurrent resolution was adopted and, under the rule, immediately certified to the Senate.

SB 2308—A bill to be entitled An act relating to the South Lake County Hospital District, Lake County; providing for codification of special laws relating to the South Lake County Hospital District; providing legislative intent; amending, codifying, reenacting, and repealing chapters 69-1201, 70-771, 75-415, 88-466, 95-456, Laws of Florida; providing district boundaries; providing definitions; providing for a board of trustees as the governing body of the district; prescribing the powers and duties of the board; providing for compensation and meetings of the board; providing a principal office of the district; authorizing the board to levy an annual al valorem tax upon taxable property within the district; providing for purpose of the tax; providing for a method for such levy; exempting property of the district for assessment; prohibiting the board from transferring control of the district's hospitals or facilities except upon approval by referendum; providing for severability; providing an effective date.

—was read the second time by title. On motion by Rep. Johnson, the rules were waived and the bill was read the third time by title. On passage, the vote was:

Session Vote Sequence: 334

Yeas—116

The Chair	Bennett	Cusack	Gibson
Alexander	Bense	Davis	Goodlette
Allen	Benson	Detert	Gottlieb
Andrews	Berfield	Diaz de la Portilla	Green
Argenziano	Betancourt	Diaz-Balart	Greenstein
Arza	Bilirakis	Dockery	Haridopolos
Attkisson	Brown	Farkas	Harper
Atwater	Brummer	Fasano	Harrell
Ausley	Brutus	Fields	Harrington
Baker	Bucher	Fiorentino	Hart
Ball	Bullard	Flanagan	Henriquez
Barreiro	Byrd	Frankel	Heyman
Baxley	Cantens	Gannon	Hogan
Bean	Carassas	Gardiner	Holloway
Bendross-Mindingall	Crow	Gelber	Jennings

Johnson	Lynn	Paul	Siplin
Jordan	Machek	Peterman	Slosberg
Joyner	Mack	Pickens	Smith
Justice	Mahon	Prieguez	Sobel
Kallinger	Mayfield	Rich	Sorensen
Kendrick	Maygarden	Richardson	Spratt
Kilmer	McGriff	Ritter	Stansel
Kosmas	Meadows	Romeo	Trovillion
Kravitz	Mealor	Ross	Wallace
Kyle	Melvin	Rubio	Waters
Lacasa	Miller	Russell	Weissman
Lee	Murman	Ryan	Wiles
Lerner	Needelman	Seiler	Wilson
Littlefield	Negron	Simmons	Wishner

Nays—None

Votes after roll call:
Yeas—Clarke, Kottkamp

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Byrd, the House moved to the consideration of HB 1933 on Special Orders.

HB 1933—A bill to be entitled An act relating to trust funds; creating s. 121.467, F.S.; creating the Public Employee Disability Trust Fund within the Division of Retirement of the Department of Management Services; providing for sources of moneys and purposes; providing for exemption from the general revenue service charges; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was read the second time by title. The vote was:

Session Vote Sequence: 335

Yeas—116

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

Nays—None

Votes after roll call:
Yeas—Kottkamp, Rich

So the bill passed by the required constitutional three-fifths vote of the membership.

Reconsideration of HB 1933

On motion by Rep. Lacasa, the House reconsidered the vote by which **HB 1933** passed earlier today.

The question recurred on the passage of HB 1933.

On motion by Rep. Lacasa, the rules were waived and HB 1933 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 336

Yeas—119

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

Nays—None

So the bill passed by the required constitutional three-fifths vote of the membership and was immediately certified to the Senate.

On motion by Rep. Goodlette, the House moved to the consideration of CS/HB 371.

CS/HB 371 was taken up. On motion by Rep. Spratt, the rules were waived and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 408, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Regulated Industries and Senator Smith—

CS for SB 408—A bill to be entitled An act relating to electric utility service interruptions; creating s. 768.138, F.S.; providing electric utilities with a complete defense in certain actions for certain law enforcement assistance activities; providing an effective date.

—was taken up, read the first time by title, and substituted for CS/HB 371. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Spratt, the rules were waived and CS for SB 408 was read the second time by title.

Representative(s) Greenstein offered the following:

(Amendment Bar Code: 401147)

Amendment 1 (with title amendment)—On page 1, line 10,

insert:

Section 1. Subsection (12) of section 403.503, Florida Statutes, is amended to read:

403.503 Definitions relating to Florida Electrical Power Plant Siting Act.—As used in this act:

(12) "Electrical power plant" means, for the purpose of certification, any steam or solar electrical generating facility using any process or fuel, including nuclear materials, and includes associated facilities which directly support the construction and operation of the electrical power plant and those associated transmission lines which connect the electrical power plant to an existing transmission network or rights-of-way to which the applicant intends to connect, except that this term does not include any steam or solar electrical generating facility of less than 75 megawatts in capacity unless the applicant for such a facility elects to apply for certification under this act *or proposes to site the facility within any area comprising at least 20 square miles with an average population density of at least 3,000 persons per square mile*. An associated transmission line may include, at the applicant's option, any proposed terminal or intermediate substations or substation expansions connected to the associated transmission line.

Section 2. Subsection (1) of section 403.506, Florida Statutes, is amended to read:

403.506 Applicability and certification.—

(1) The provisions of this act shall apply to any electrical power plant as defined herein, except that the provisions of this act shall not apply to any electrical power plant or steam generating plant of less than 75 megawatts in capacity or to any substation to be constructed as part of an associated transmission line unless the applicant has elected to apply for certification of such plant or substation under this act *or proposes to site such plant within any area comprising at least 20 square miles with an average population density of at least 3,000 persons per square mile*. No construction of any new electrical power plant or expansion in steam generating capacity of any existing electrical power plant may be undertaken after October 1, 1973, without first obtaining certification in the manner as herein provided, except that this act shall not apply to any such electrical power plant which is presently operating or under construction or which has, upon the effective date of chapter 73-33, Laws of Florida, applied for a permit or certification under requirements in force prior to the effective date of such act.

And the title is amended as follows:

On page 1, line 3, of the title of the bill

after "interruptions;" insert: amending s. 403.503, F.S.; revising a definition; amending s. 403.506, F.S.; providing an additional exception to application for certain power plants;

Rep. Greenstein moved the adoption of the amendment, which failed of adoption.

On motion by Rep. Spratt, the rules were waived and CS for SB 408 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 337

Yeas—119

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

Nays—None

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Goodlette, the House moved to the consideration of HB 1947 on Special Orders.

Continuation of Special Orders

Continuation of Special Order Calendar

HB 1947—A bill to be entitled An act relating to the Public Employee Optional Retirement Program; amending s. 121.4501, F.S.; providing additional definitions; providing for payment of benefits pursuant to s. 121.591, F.S.; amending s. 121.571, F.S.; revising employer contribution rates to disability accounts; creating s. 121.591, F.S.; providing for payment of normal benefits, disability retirement benefits, and death benefits under the Public Employee Optional Retirement Program; providing requirements, criteria, procedures, and limitations; providing for disability benefits for certain justices and judges; limiting application of legal process to such benefits; providing a declaration of important state interest; providing an effective date.

—was read the second time by title.

Representative(s) Gibson offered the following:

(Amendment Bar Code: 145875)

Amendment 1 (with title amendment)—On page 1, line 21,

insert:

Section 1. Subsection (2) of section 121.0515, Florida Statutes, is amended to read:

121.0515 Special risk membership.—

(2) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

(a) The member must be employed as a law enforcement officer and be certified, or required to be certified, in compliance with s. 943.1395; however, sheriffs and elected police chiefs shall be excluded from meeting the certification requirements of this paragraph. In addition, the member's duties and responsibilities must include the pursuit, apprehension, and arrest of law violators or suspected law violators; or the member must be an active member of a bomb disposal unit whose

primary responsibility is the location, handling, and disposal of explosive devices; or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included;

(b) The member must be employed as a firefighter and be certified, or required to be certified, in compliance with s. 633.35 and be employed solely within the fire department of the employer or agency of state government. In addition, the member's duties and responsibilities must include on-the-scene fighting of fires*, fire prevention or firefighter training,* or direct supervision of firefighting units, *fire prevention or firefighter training,* or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included;

(c) The member must be employed as a correctional officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or the member must be the supervisor or command officer of a member or members who have such responsibilities; provided, however, administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, shall not be included; however, wardens and assistant wardens, as defined by rule, shall participate in the Special Risk Class;

(d) The member must be employed by a licensed Advance Life Support (ALS) or Basic Life Support (BLS) employer as an emergency medical technician or a paramedic and be certified in compliance with s. 401.27. In addition, the member's primary duties and responsibilities must include on-the-scene emergency medical care *or direct supervision of emergency medical technicians or paramedics, or the member must be the supervisor or command officer of one or more members who have such responsibility*. However, administrative support personnel, including, but not limited to, those whose primary responsibilities are in accounting, purchasing, legal, and personnel, shall not be included;

(e) The member must be employed as a community-based correctional probation officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controllees within the community; or the member must be the supervisor of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal services, and personnel management, shall not be included; however, probation and parole circuit and deputy circuit administrators shall participate in the Special Risk Class; or

(f) The member must be employed in one of the following classes and must spend at least 75 percent of his or her time performing duties which involve contact with patients or inmates in a correctional or forensic facility or institution:

1. Dietitian (class codes 5203 and 5204).

2. Public health nutrition consultant (class code 5224).

3. Psychological specialist (class codes 5230 and 5231).

4. Psychologist (class code 5234).

5. Senior psychologist (class codes 5237 and 5238).

6. Regional mental health consultant (class code 5240).

7. Psychological Services Director—DCF (class code 5242).

8. Pharmacist (class codes 5245 and 5246).

9. Senior pharmacist (class codes 5248 and 5249).

10. Dentist (class code 5266).

11. Senior dentist (class code 5269).

12. Registered nurse (class codes 5290 and 5291).

13. Senior registered nurse (class codes 5292 and 5293).

14. Registered nurse specialist (class codes 5294 and 5295).

15. Clinical associate (class codes 5298 and 5299).

16. Advanced registered nurse practitioner (class codes 5297 and 5300).

17. Advanced registered nurse practitioner specialist (class codes 5304 and 5305).

18. Registered nurse supervisor (class codes 5306 and 5307).

19. Senior registered nurse supervisor (class codes 5308 and 5309).

20. Registered nursing consultant (class codes 5312 and 5313).

21. Quality management program supervisor (class code 5314).

22. Executive nursing director (class codes 5320 and 5321).

23. Speech and hearing therapist (class code 5406); or

24. Pharmacy manager (class code 5251).

And the title is amended as follows:

On page 1, lines 2 & 3 ,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to the Florida Retirement System; amending s. 121.0515, F.S.; including fire prevention training or firefighting duties among eligibility requirements for special risk classification; revising criteria for membership in the special risk class to include emergency medical technicians and paramedics having supervisory or command authority over other emergency medical technicians and paramedics or having supervisory or command authority over such supervisory or command personnel; amending s. 121.4501, F.S.;

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

Representative(s) Cantens offered the following:

(Amendment Bar Code: 455071)

Amendment 2 (with title amendment)—On page 1, line 21,

insert:

Section 1. Paragraph (b) of subsection (1) of section 121.053, Florida Statutes, is amended to read:

121.053 Participation in the Elected Officers' Class for retired members.—

(1)

(b) Any retired member of the Florida Retirement System, or any existing system as defined in s. 121.021(2), who, on or after July 1, 1990, is serving in, or is elected or appointed to, an elective office covered by the Elected Officers' Class shall be enrolled in the appropriate subclass of the Elected Officers' Class of the Florida Retirement System, and applicable contributions shall be paid into the Florida Retirement System Trust Fund as provided in s. 121.052(7). Pursuant thereto:

1. Any such retired member shall be eligible to continue to receive retirement benefits as well as compensation for the elected officer service for as long as he or she remains in an elective office covered by the Elected Officers' Class.

2. If any such member serves in an elective office covered by the Elected Officers' Class and becomes vested under that class, he or she shall be entitled to receive an additional retirement benefit for such elected officer service.

3. Such member shall be entitled to purchase additional retirement credit in the Elected Officers' Class for any postretirement service performed in an elected position eligible for the Elected Officers' Class prior to July 1, 1990, or in the Regular Class for any postretirement service performed in any other regularly established position prior to July 1, 1991, by paying the applicable Elected Officers' Class or Regular Class employee and employer contributions for the period being claimed, plus 4 percent interest compounded annually from the first year of service claimed until July 1, 1975, and 6.5 percent interest compounded thereafter, until full payment is made to the Florida Retirement System Trust Fund. The contribution for postretirement Regular Class service between July 1, 1985, and July 1, 1991, for which the reemployed retiree contribution was paid, shall be the difference between such contribution and the total applicable contribution for the period being claimed, plus interest. The employer of such member may pay the applicable employer contribution in lieu of the member. If a member does not wish to claim credit for all of the postretirement service for which he or she is eligible, the service the member claims must be the most recent service.

4. Creditable service for which credit was received, or which remained unclaimed, at retirement may not be claimed or applied toward service credit earned following renewed membership. However, service earned in accordance with the renewed membership provisions in s. 121.122 may be used in conjunction with creditable service earned under this paragraph, provided applicable vesting requirements and other existing statutory conditions required by this chapter are met.

5. Any elected officer who is a participating member of DROP may terminate participation at any time during the 60-month DROP participation period and elect to enroll in the appropriate subclass of the Elected Officers' Class, including participating in the Senior Management Service Class, effective the first day of the following month.

And the title is amended as follows:

On page 1, line 3, before the word "amending" ,

insert: amending s. 121.053, F.S.; authorizing elected officers participating in DROP to terminate participation in DROP and enroll in a subclass of the Elected Officers' Class;

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

Representative(s) Fasano offered the following:

(Amendment Bar Code: 833723)

Amendment 3 (with title amendment)—On page 1, line 21, of the bill

insert:

Section 1. Subsection (1), paragraph (a) of subsection (2), paragraph (e) of subsection (4), paragraph (b) of subsection (8), and paragraphs (a) and (b) of subsection (9) of section 121.4501, Florida Statutes, are amended, and paragraph (f) is added to subsection (9) of said section, to read:

121.4501 Public Employee Optional Retirement Program.—

(1) The Trustees of the State Board of Administration shall establish an optional defined contribution retirement program for members of the Florida Retirement System under which retirement benefits will be provided for eligible employees who elect to participate in the program. The benefits to be provided for or on behalf of participants in such optional retirement program shall be provided through employee-directed investments, in accordance with s. 401(a) of the Internal Revenue Code and its related regulations. The employers shall contribute, as provided in this section and s. 121.571, *to the Public Employee Optional Retirement Program Trust Fund* toward the funding of such optional benefits.

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

(a) "Approved provider" or "provider" means a private sector company that is selected and approved by the state board to offer one or more investment products or services to the Public Employee Optional Retirement Program*, including a "bundled provider" that offers participants a range of individually allocated or unallocated investment products and may offer a range of administrative and customer services, which may include accounting and administration of individual participant benefits and contributions; individual participant recordkeeping; asset purchase, control, and safekeeping; direct execution of the participant's instructions as to asset and contribution allocation; calculation of daily net asset values; direct access to participant account information; periodic reporting to participants, at least quarterly, on account balances and transactions; direct advice and guidance on its investments options; a broad array of distribution options; and asset allocation and retirement counseling and education*. Private sector companies include investment management companies, insurance companies, depositories, and mutual fund companies.

(4) PARTICIPATION; ENROLLMENT.—

(e) After the period during which an eligible employee had the choice to elect the defined benefit program or the Public Employee Optional Retirement Program, the employee shall have one opportunity, *that is, a second election,* ~~at the employee's discretion,~~ to choose to move from the defined benefit program to the Public Employee Optional Retirement Program or from the Public Employee Optional Retirement Program to the defined benefit program. This paragraph shall be contingent upon approval from the Internal Revenue Service for including the choice described herein within the programs offered by the Florida Retirement System.

1. If the employee chooses to move to the Public Employee Optional Retirement Program, the applicable provisions of this section shall govern the transfer.

2. If the employee chooses to move *from the Public Employee Optional Retirement Program* to the defined benefit program, the employee must transfer from his or her *optional program* ~~Public Employee Optional Retirement Program~~ account and from other employee moneys as necessary, a sum representing all contributions that would have been made to the defined benefit plan for that employee and the actual return that would have been earned on those contributions had they been invested in the defined benefit program.

If, at the time of a member's election to transfer to the defined benefit program, the member's optional program account does not contain the total amount required to be transferred to the defined benefit program, the member must pay the remaining balance. If the member's optional program account contains more than the amount required to be transferred to the defined benefit program, such additional amount shall remain in the member's optional program account.

(8) ADMINISTRATION OF PROGRAM.—

(b)1. The state board shall select and contract with one third-party administrator to provide administrative services*, where those services do not duplicate services provided by the Division of Retirement within the Department of Management Services*. With the approval of the state board, the third-party administrator may subcontract with other organizations or individuals to provide components of the administrative services. As a cost of administration, the board may compensate any such contractor for its services, in accordance with the terms of the contract, as is deemed necessary or proper by the board. The third-party administrator may not be an approved provider or be affiliated with an approved provider.

2. *These* administrative services *may* include, but are not limited to, *enrollment of eligible employees, collection of employer contributions, disbursement of such contributions to approved providers in accordance with the allocation directions of participants;* services relating to consolidated billing; individual and collective recordkeeping and accounting; asset purchase, control, and safekeeping; and direct disbursement of funds to and from the third-party administrator, the division, the board, employers, participants, approved providers, and

beneficiaries. *Nothing in this section shall prevent or prohibit a bundled provider from providing any administrative or customer service, including accounting and administration of individual participant benefits and contributions; individual participant recordkeeping; asset purchase, control, and safekeeping; direct execution of the participant's instructions as to asset and contribution allocation; calculation of daily net asset values; direct access to participant account information; periodic reporting to participants, at least quarterly, on account balances and transactions.*

3. The state board shall select and contract with one or more organizations to provide educational services. With approval of the board, the organizations may subcontract with other organizations or individuals to provide components of the educational services. As a cost of administration, the board may compensate any such contractor for its services in accordance with the terms of the contract, as is deemed necessary or proper by the board. The education organization may not be an approved provider or be affiliated with an approved provider.

4. Educational services shall be designed by the board and department to assist employers, eligible employees, participants, and beneficiaries in order to maintain compliance with United States Department of Labor regulations under s. 404(c) of the Employee Retirement Income Security Act of 1974 and to assist employees in their choice of defined benefit or defined contribution retirement alternatives. Educational services include, but are not limited to, disseminating educational materials; providing retirement planning education; explaining the differences between the defined benefit retirement plan and the defined contribution retirement plan; and offering financial planning guidance on matters such as investment diversification, investment risks, investment costs, and asset allocation. An approved provider may also provide educational information, including retirement planning and investment allocation information concerning its products and services.

(9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

(a) The board shall develop policy and procedures for selecting, evaluating, and monitoring the performance of approved providers and investment products to which employees may direct retirement contributions under the program. In accordance with such policy and procedures, the board shall designate and contract for a number of investment products as determined by the board. The board shall *also* select one or more *bundled* providers*, each of whom* ~~who~~ offer *nine* ~~multiple~~ investment *options and related services* ~~products~~ when such an approach is determined by the board to afford value to the participants otherwise not available through individual investment products. *Each approved bundled provider may offer investment options that provide participants with the opportunity to invest in each of the following asset classes, to be composed of individual options that represent either a single asset class or a combination thereof: money markets, U.S. fixed income, U.S. equities, and foreign stock.* The board shall review and manage all educational materials, contract terms, fee schedules, and other aspects of the approved provider relationships to ensure that no provider is unduly favored or penalized by virtue of its status within the plan.

(b) The board shall consider investment options or products it considers appropriate to give participants the opportunity to accumulate retirement benefits, subject to the following:

1. The Public Employee Optional Retirement Program must offer a diversified mix of low-cost investment products that span the risk-return spectrum*, and may include a guaranteed account as well as investment products such as individually allocated guaranteed and variable annuities, that meet the requirements of this subsection and that combine the ability to accumulate investment returns with the option of receiving lifetime income consistent with the long-term retirement security of a pension plan and similar to the lifetime income benefit provided by the Florida Retirement System*.

2. Investment options or products offered by the group of approved providers may include mutual funds, group annuity contracts, individual retirement annuities, interests in trusts, collective trusts, separate accounts, and other such financial instruments*, and shall include products that give participants the option of committing their contributions for an extended time period in an effort to obtain higher returns than could be obtained from investment products offering full liquidity*.

3. The board shall not contract with any provider that imposes a front-end, back-end, contingent, or deferred sales charge, or any other fee that limits or restricts the ability of participants to select any investment product available in the optional program. *This prohibition shall not apply to fees or charges that are imposed on withdrawals from products that give participants the option of committing their contributions for an extended time period in an effort to obtain higher returns than could be obtained from investment products offering full liquidity, provided that the product in question, net of all fees and charges, produces material benefits relative to other comparable products in the program offering full liquidity.*

4. Fees or charges for insurance features, such as mortality and expense risk charges, shall be reasonable relative to the benefits provided.

(f)1. An approved provider shall comply with all applicable federal and state securities and insurance laws and regulations, as well as the applicable rules and guidelines of the National Association of Securities Dealers (NASD) governing the ethical marketing of investment products. In furtherance of this mandate, an approved provider must agree in its contract with the board to establish and maintain a compliance education and monitoring system to supervise the activities of all personnel who directly communicate with individual participants and recommend investment products, which system is consistent with National Association of Security Dealers rules.

2. Approved provider personnel who directly communicate with individual participants and who recommend investment products shall make an independent and unbiased determination as to whether an investment product is suitable for a particular participant.

3. The board shall develop procedures to receive and resolve participant complaints against a provider or approved provider personnel, and, when appropriate, refer such complaints to the appropriate regulatory agency.

4. Approved providers are prohibited from selling or in any way distributing any customer list or participant identification information generated through their offering of products or services through the optional retirement program.

Section 2. *The appointment of the executive director of the State Board of Administration shall be subject to the approval by a majority vote of the Board of Trustees of the State Board of Administration and the Governor must vote on the prevailing side. Such appointment must be reaffirmed in the same manner by the Board of Trustees on an annual basis.*

And the title is amended as follows:

On page 1, line 3, after "Program;"

insert: amending s. 121.4501, F.S.; redefining the term "approved provider"; providing requirements for the State Board of Administration in carrying out its duties under the program; providing requirements for approved providers regarding federal and state laws and regulations, and for communications with participants; providing requirements for the appointment of the executive director of the State Board of Administration;

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

Representative(s) Lacasa offered the following:

(Amendment Bar Code: 741737)

Amendment 4—On page 12, lines 3 through 19
remove from the bill: all of said lines

and insert in lieu thereof: *(f) A participant whose application for regular disability has been denied and who has filed an appeal to the*

State Retirment Commission under s. 121.23 may elect, if eligible, to recieve disability benefits as provided under paragraphs (g) and (h) while her or she is awaiting the decision on appeal, to the extent such benefit payments are covered by funds deposited in the Public Employee Disability Trust Fund pursuant to subparagraph 1. or 2. of paragraph (2)(a). In that event:

1. If the regular disability benefits are subsequently approved, disability benefits will continue to be paid to the terminated participant as provided under this subsection.

2. If disability benefits are later denied as a result of the appeal:

a. The remainder of any vested accumulations on deposit in the Public Employee Disability Trust Fund, less the sum of the total amount paid in monthly disability benefits while the appeal was pending and any withholding taxes remitted to the Internal Revenue Service, shall be transferred to the third party administrator for distribution to the terminated participant as provided under subsection (1).

b. The remainder of any nonvested accumulations on deposit in the Public Employee Disability Trust Fund, less the sum of the total amount paid in monthly disability benefits while the appeal was pending and any withholding taxes remitted to the Internal Revenue Service, shall be transferred to the State Board Of Administration and shall be held in the suspense account of the Public Employee Optional Retirement Program Trust Fund, in accordance with s. 121.4501(6)(a)2. or (b)2., as appropriate.

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

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

Waiver of the Rules for Committee and Council Meetings and Bills

On motion by Rep. Goodlette, Chair of the Committee on Rules, Ethics & Elections, the rules were waived and the Procedural & Redistricting Council was given permission to add PCB PRC 01-04, relating to elections, to the agenda for its meeting today, to be held 15 minutes after adjournment of the morning session.

Recessed

On motion by Rep. Byrd, the House recessed at 12:36 p.m., to reconvene at 1:45 p.m. today or upon call of the Chair.

Reconvened

The House was called to order by the Speaker at 1:51 p.m. A quorum was present [Session Vote Sequence: 338].

On motion by Rep. Byrd, the House moved to the consideration of HJR 571 on Special Orders.

Continuation of Special Orders

HJR 571—A joint resolution proposing a revision of Article XI, Section 5 of the State Constitution requiring the Legislature to provide by general law for the provision of an economic impact statement of each proposed amendment or revision to the State Constitution prior to its adoption by the voters of the state.

—was read the second time by title.

Representative(s) Johnson offered the following:

(Amendment Bar Code: 314251)

Amendment 1 (with title amendment)—On page 2, lines 1-24, remove from the bill: all of said lines

and insert in lieu thereof:
probable financial impact of any amendment proposed by initiative pursuant to Section 3.

(c)~~(b)~~ Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, shall be published in one newspaper of general circulation in each county in which a newspaper is published.

(d)~~(c)~~ If the proposed amendment or revision is approved by vote of the electors, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

ECONOMIC IMPACT STATEMENTS FOR
PROPOSED CONSTITUTIONAL AMENDMENTS OR REVISIONS

Requires the Legislature to provide by general law for the provision of an economic impact statement to the public prior to the public voting on an amendment of the Florida Constitution proposed by initiative.

And the title is amended as follows:

On page 1, lines 6 and 7,
remove from the title of the bill: all of said lines

and insert in lieu thereof: statement of each amendment proposed by initiative to the State Constitution prior to its

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

On motion by Rep. Johnson, the rules were waived and HJR 571, as amended, was read the third time by title and now reads as follows:

HJR 571—A joint resolution proposing a revision of Article XI, Section 5 of the State Constitution requiring the Legislature to provide by general law for the provision of an economic impact statement of each amendment proposed by initiative to the State Constitution prior to its adoption by the voters of the state.

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

That the amendment to Section 5 of Article XI of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 2002:

SECTION 5. Amendment or revision election.—

(a) A proposed amendment to or revision of this constitution, or any part of it, shall be submitted to the electors at the next general election held more than ninety days after the joint resolution, initiative petition or report of revision commission, constitutional convention or taxation and budget reform commission proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.

(b) The legislature shall provide by general law, prior to the holding of an election pursuant to this section, for the provision of a statement to the public regarding the probable financial impact of any amendment proposed by initiative pursuant to Section 3.

(c)~~(b)~~ Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, shall be published in one newspaper of general circulation in each county in which a newspaper is published.

(d)~~(c)~~ If the proposed amendment or revision is approved by vote of the electors, it shall be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

ECONOMIC IMPACT STATEMENTS FOR PROPOSED CONSTITUTIONAL AMENDMENTS OR REVISIONS

Requires the Legislature to provide by general law for the provision of an economic impact statement to the public prior to the public voting on an amendment of the Florida Constitution proposed by initiative.

The question recurred on the passage of HJR 571. The vote was:

Session Vote Sequence: 339

Yeas—105

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

Nays—9

Cusack	Kendrick	Romeo	Siplin
Dockery	Ritter	Ross	Weissman
Fields			

Votes after roll call:
Yeas—Flanagan
Nays—Sobel

So the joint resolution passed, as amended, by the required constitutional three-fifths vote of the membership and was immediately certified to the Senate after engrossment.

CS/HB 135—A bill to be entitled An act relating to Workforce Florida, Inc.; amending s. 445.004, F.S.; expanding the utilization of faith-based and community-based organizations; requiring certain funds to be expended for after-school care programs; providing an effective date.

—was read the second time by title.

The Committee on Transportation & Economic Development Appropriations offered the following:

(Amendment Bar Code: 093971)

Amendment 1—On page 3, lines 10-15,
remove from the bill: all of said lines

and insert in lieu thereof: *expended for after-school care programs, through contracts with qualified faith-based and community-based organizations, on an equal basis with other private organizations, to provide after-school care programs to eligible children 14 through 18 years of age. Such programs shall include academic tutoring, mentoring, and other appropriate services. Similar services may be provided for eligible children 6 through 13 years of age using Temporary Assistance for Needy Families funds.*

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

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

HB 1883—A bill to be entitled An act relating to trust funds; creating s. 20.505, F.S.; creating the Administrative Trust Fund within the Agency for Workforce Innovation; providing for sources of funds and purposes; providing for annual carryforward of funds; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was read the second time by title.

Representative(s) Johnson offered the following:

(Amendment Bar Code: 662387)

Amendment 1 (with title amendment)—On page 1, lines 19-21,
remove from the bill: all of said lines

and insert in lieu thereof:

(2) Funds shall be used for the purpose of

And the title is amended as follows:

On page 1, line 5,
remove from the title of the bill: sources of funds and

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

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

CS/HB 1255—A bill to be entitled An act relating to the Florida Building Code; amending s. 373.323, F.S.; authorizing water well contractors to install, repair, or modify specified equipment in accordance with the code; amending s. 489.509, F.S.; transferring specified licensing fees from the Department of Education to the Department of Community Affairs; amending ss. 553.36 and 553.415, F.S.; defining the term "factory-built school shelter"; providing for the Department of Community Affairs to approve plans for such shelters; authorizing districts to charge inspection fees; authorizing approved inspection entities to conduct inspections of factory-built school buildings while they are under construction; delaying the deadline for inspecting factory-built buildings currently in use; amending ss. 553.505 and 553.507, F.S.; conforming cross references; amending s. 553.73, F.S.; providing for the uniform implementation of parts of the residential swimming pool safety act; defining the term "specific needs" for purposes of selection from available codes; providing a process for the approval of technical amendments to the code; providing for the treatment of permit applications submitted prior to the effective date of the code; exempting specified buildings from certain standards of the code; amending s. 553.77, F.S.; requiring the commission to issue specified declaratory statements; providing for hearings; providing for rules for plan review of prototype buildings; authorizing the commission to produce a commentary to accompany the Florida Building Code; amending s. 553.79, F.S.; requiring the code to establish standards for preliminary construction; creating s. 553.8412, F.S.; providing for statewide outreach for training in the code; amending s. 553.842, F.S.; providing methods for local and statewide approval of products and methods or systems of construction; providing rulemaking authority; amending s. 553.895, F.S.; exempting specified spaces within telecommunications buildings under specified circumstances; allowing the use of a manual wet standpipe under certain circumstances; directing the commission to research certain issues and provide reports to the Legislature; providing an effective date for the Florida Building Code; amending chs. 98-287, Laws of Florida, as amended by ch. 2000-141, Laws of Florida, 98-419, Laws of Florida, as amended by ch. 2000-141, Laws of Florida, and 2000-141, Laws of Florida; revising effective

dates of certain provisions; requiring the Florida Building Commission to appoint members to the commission's Education Technical Advisory Committee; specifying duties of the advisory committee; providing for the carryforward of funds collected for research projects; requiring the Florida Building Commission to convene an ad hoc subcommittee to make recommendations regarding alternative plans review and inspection procedures; requiring a report; amending ss. 316.515 and 627.702, F.S.; revising cross references; repealing s. 553.77(2), F.S., relating to commission prescription of certain renewal fees; providing effective dates.

—was read the second time by title.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 254301)

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

and insert in lieu thereof:

Section 1. Effective upon this act becoming a law, section 235.061, Florida Statutes, is amended to read:

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

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

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

Section 2. Effective upon this act becoming a law, subsection (1) of section 235.212, Florida Statutes, is amended to read:

235.212 Low-energy use design; solar energy systems; swimming pool heaters.—

(1)(a) Passive design elements and low-energy usage features shall be included in the design and construction of new educational facilities. Operable glazing consisting of at least 5 percent of the floor area shall be placed in each classroom located on the perimeter of the building. *For relocatable classroom facilities, the area of operable glazing and the area of exterior doors together shall consist of at least 5 percent of the floor area.* Operable glazing is not required in community colleges, auxiliary facilities, music rooms, gyms, locker and shower rooms, special laboratories requiring special climate control, and large group instruction areas having a capacity of more than 100 persons.

(b) In the remodeling and renovation of educational facilities which have existing natural ventilation, adequate sources of natural ventilation shall be retained, or a combination of natural and low-energy usage mechanical equipment shall be provided that will permit the use of the facility without air-conditioning or heat when ambient conditions are moderate. However, the Commissioner of Education is authorized to waive this requirement when environmental conditions, particularly noise and pollution factors, preclude the effective use of natural ventilation.

Section 3. Effective July 1, 2001, subsection (1) of section 255.31, Florida Statutes, as amended by section 15 of chapter 2001-141, Laws of Florida, is amended to read:

255.31 Authority to the Department of Management Services to manage construction projects for state and local governments.—

(1) The design, construction, erection, alteration, modification, repair, and demolition of all public and private buildings are governed by the Florida Building Code and the Florida Fire Prevention Code, which are to be enforced by local jurisdictions or local enforcement districts unless specifically exempted as provided in s. 553.80. However, the Department of Management Services shall provide the project management and administration services for the construction, renovation, repair, modification, or demolition of buildings, utilities, parks, parking lots, or other facilities or improvements for projects for which the funds are appropriated to the department; provided that, with the exception of facilities constructed under the authority of chapters 944, 945, ~~and~~ 985, *the Governor's mansion and grounds thereof as described in s. 272.18, and the Capitol Building and environs, being that part of the city of Tallahassee bounded on the north by Pensacola and Jefferson Streets, on the east by Monroe Street, on the south by Madison Street and on the west by Duval Street,* the department may not conduct plans reviews or inspection services for consistency with the Florida Building Code. The department's fees for such services shall be paid from such appropriations.

Section 4. Effective upon this act becoming a law, subsections (1) and (2) of section 399.061, Florida Statutes, are amended to read:

399.061 Inspections; correction of deficiencies.—

(1)(a) All elevators *or other conveyances* subject to this chapter must be *annually* inspected by *a certified elevator inspector through a third-party inspection service, or by a municipality or county under contract with the division* pursuant to s. 399.13. *If the elevator or other conveyance is* ~~by a third-party inspection service certified as a qualified elevator inspector or~~ maintained pursuant to a service maintenance contract continuously in force*, it shall be inspected at least once every two years by a certified elevator inspector not employed by or otherwise associated with the maintenance company; however, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection shall be required so long as the service contract remains in effect*. A statement verifying the existence, performance, and cancellation of each service maintenance contract must be filed annually with the division as prescribed by rule. ~~All elevators covered by a service maintenance contract shall be inspected by a certificate-of-competency holder at least once every 2 years; however, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection shall be required so long as the service contract remains in effect.~~

(b) The division may inspect an elevator whenever necessary to ensure its safe operation *or when a third-party inspection service is not available for routine inspection*.

(2) The division *may* ~~shall~~ employ state elevator inspectors to conduct the inspections *as* required by subsection (1) *and may charge an inspection fee for each inspection sufficient to cover the costs of that inspection, as provided by rule*. Each state elevator inspector shall hold a certificate of competency issued by the division.

Section 5. Subsection (10) is added to section 373.323, Florida Statutes, to read:

373.323 Licensure of water well contractors; application, qualifications, and examinations; equipment identification.—

(10) Water well contractors licensed under this section may install, repair, and modify pumps and tanks in accordance with the Florida Building Code, Plumbing; Section 612—Wells pumps and tanks used for private potable water systems. In addition, licensed water well contractors may install pumps, tanks, and water conditioning equipment for all water well systems.

Section 6. Effective upon this act becoming a law, section 489.13, Florida Statutes, is amended to read:

489.13 Unlicensed contracting; authority to issue or receive a building permit.—

(1) Any person performing an activity requiring licensure under this part as a construction contractor is guilty of unlicensed contracting if he or she does not hold a valid active certificate or registration authorizing him or her to perform such activity, regardless of whether he or she holds a local construction contractor license or local certificate of competency*, except where he or she holds a valid local specialty license as defined in s. 489.105(3)q)*. Persons working outside the geographical scope of their registration are guilty of unlicensed activity for purposes of this part.

(2) A local building department shall not issue a building permit to any contractor, or to any person representing himself or herself as a contractor, who does not hold a valid active certificate or registration in the appropriate category. Possession of a local certificate of competency or local construction license is not sufficient to lawfully obtain a building permit as a construction contractor if the activity in question requires licensure under this part. Nothing in this section shall be construed as prohibiting a local building department from issuing a building permit to a locally licensed or certified contractor for an activity that does not require licensure under this part.

Section 7. Effective upon this act becoming a law, subsection (3) of section 489.509, Florida Statutes, is amended to read:

489.509 Fees.—

(3) Four dollars of each fee under subsection (1) paid to the department at the time of application or renewal shall be transferred at the end of each licensing period to the Department of *Community Affairs* ~~Education~~ to fund projects relating to the building construction industry or continuing education programs offered to persons engaged in the building construction industry in Florida. The board shall, at the time the funds are transferred, advise the Department of *Community Affairs* ~~Education~~ on the most needed areas of research or continuing education based on significant changes in the industry's practices or on the most common types of consumer complaints or on problems costing the state or local governmental entities substantial waste. The board's advice is not binding on the Department of *Community Affairs* ~~Education~~. ~~The Department of Education must allocate 50 percent of the funds to a graduate program in building construction in a Florida university and 50 percent of the funds to all accredited private and state universities and community colleges within the state offering approved courses in building construction, with each university or college receiving a pro rata share of such funds based upon the number of full-time building construction students enrolled at the institution.~~ The Department of *Community Affairs* ~~Education~~ shall ensure the distribution of research reports and the availability of continuing education programs to all segments of the building construction industry to which they relate. The Department of *Community Affairs* ~~Education~~ shall report to the board in October of each year, summarizing the allocation of the funds by institution and summarizing the new projects funded and the status of previously funded projects. ~~The Commissioner of Education is directed to appoint one electrical contractor and one certified alarm system contractor to the Building Construction Industry Advisory Committee.~~

Section 8. Effective upon this act becoming a law, present subsections (7) through (15) of section 553.36, Florida Statutes, are redesignated as subsections (8) through (16), respectively, and a new subsection (7) is added to that section, to read:

553.36 Definitions.—The definitions contained in this section govern the construction of this part unless the context otherwise requires.

(7) "Factory-built school shelter" means any site-assembled or factory-built school building that is designed to be portable, relocatable, demountable, or reconstructible and that complies with the provisions for enhanced hurricane protection areas, as required by the applicable code.

Section 9. Effective upon this act becoming a law, subsections (1), (5), (7), (8), (9), (11) and (13) of section 553.415, Florida Statutes, are amended to read:

553.415 Factory-built school buildings.—

(1) It is the purpose of this section to provide an alternative procedure for the construction and installation of factory-built school buildings designed or intended for use as school buildings. As used in this section, the term "factory-built school building" means any building designed or intended for use as a school building, which is in whole or in part, manufactured at an offsite facility in compliance with the State Uniform Code for Public Educational Facilities and Department of Education rule, effective on January 5, 2000. After *January 1, 2002* ~~July 1, 2001~~, the Uniform Code for Public Educational Facilities shall be incorporated into the Florida Building Code, including specific requirements for Public Educational Facilities and the Department of Education rule, effective on January 5, 2000. For the purpose of this section, factory-built school buildings include prefabricated educational facilities, factory-built educational facilities, and modular-built educational facilities, that are designed to be portable, relocatable, demountable, or reconstructible; are used primarily as classrooms or the components of an entire school; and do not fall under the provisions of ss. 320.822-320.862.

(5) The department, in accordance with the standards and procedures adopted pursuant to this section and as such standards and procedures may thereafter be modified, shall approve or reject such plans, specifications, and methods of construction. Approval shall not be given unless such plans, specifications, and methods of construction are in compliance with the State Uniform Building Code for Public Educational Facilities and department rule. After *January 1, 2002* ~~July 1, 2001~~, the Uniform Code for Public Educational facilities shall be incorporated into the Florida Building Code, including specific requirements for public educational facilities and department rule.

(7) A standard plan approval may be obtained from the department for factory-built school buildings and such department-approved plans shall be accepted by the enforcement agency as approved for the purpose of obtaining a construction permit for the structure itself. *The department, or its designated representative, shall determine if the plans qualify for purposes of a factory-built school shelter, as defined in s. 553.36.*

(8) Any amendment to the State Uniform Code for Public Educational Facilities, and after *January 1, 2002* ~~July 1, 2001~~, the Florida Building Code, shall become effective 180 days after the amendment is filed with the Secretary of State. Notwithstanding the 180-day delayed effective date, the manufacturer shall submit and obtain a revised approved plan within the 180 days. A revised plan submitted pursuant to this subsection shall be processed as a renewal or revision with appropriate fees. A plan submitted after the period of time provided shall be processed as a new application with appropriate fees.

(9) The school district or community college district for which any factory-built school building is constructed or altered *after July 1, 2001,* shall provide for periodic inspection of the proposed factory-built school building during each phase of construction or alteration. The inspector shall act under the direction of the governing board for employment purposes. *Nothing in this subsection shall prevent a school district or community college district from purchasing or otherwise using a factory-built school building that has been inspected during all phases of construction or alteration conducted after January 1, 2002, by another school district or community college or by an approved inspection agency certified pursuant to s. 553.36(2). If a factory-built school building is constructed or altered for an entity other than a school district or*

community college district after January 1, 2002, such entity may employ at its election a school district, community college district, or such approved inspection agency to conduct such inspections. A school district or community college district so employed may charge such entity for services at reasonable rates comparable to those charged for similar services by approved inspection agencies.

(11) The department shall develop a unique identification label to be affixed to all newly constructed factory-built school buildings and existing factory-built school buildings which have been brought into compliance with the standards for existing "satisfactory" buildings pursuant to chapter 5 of the Uniform Code for Public Educational Facilities, and after *January 1, 2002* ~~July 1, 2001~~, the Florida Building Code. The department may charge a fee for issuing such labels. Such labels, bearing the department's name and state seal, shall at a minimum, contain:

(a) The name of the manufacturer.

(b) The standard plan approval number or alteration number.

(c) The date of manufacture or alteration.

(d) The serial or other identification number.

(e) The following designed-for loads: lbs. per square foot live load; lbs. per square foot floor live load; lbs. per square foot horizontal wind load; and lbs. per square foot wind uplift load.

(f) The designed-for flood zone usage.

(g) The designed-for wind zone usage.

(h) The designed-for enhanced hurricane protection zone usage: yes or no.

(13) As of July 1, 2001, all ~~existing and~~ newly constructed factory-built school buildings shall bear a label pursuant to subsection (12). *As of January 1, 2002,* existing factory-built school buildings*, and manufactured buildings used as classrooms,* not bearing such label shall not be used as classrooms pursuant to s. 235.061.

Section 10. Effective July 1, 2001, section 553.505, Florida Statutes, is amended to read:

553.505 Exceptions to applicability of the Americans with Disabilities Act.—Notwithstanding the Americans with Disabilities Act of 1990, private clubs are governed by ss. 553.501-553.513. Parking spaces, parking lots, and other parking facilities are governed by *s. 553.5041* ~~s. 316.1955,~~ when that section provides increased accessibility.

Section 11. Effective July 1, 2001, section 553.507, Florida Statutes, is amended to read:

553.507 Exemptions.—Sections 553.501-553.513 ~~and s. 316.1955(4)~~ do not apply to any of the following:

(1) Buildings, structures, or facilities that were either under construction or under contract for construction on October 1, 1997.

(2) Buildings, structures, or facilities that were in existence on October 1, 1997, unless:

(a) The building, structure, or facility is being converted from residential to nonresidential or mixed use, as defined by local law;

(b) The proposed alteration or renovation of the building, structure, or facility will affect usability or accessibility to a degree that invokes the requirements of s. 303(a) of the Americans with Disabilities Act of 1990; or

(c) The original construction or any former alteration or renovation of the building, structure, or facility was carried out in violation of applicable permitting law.

Section 12. Subsections (2) and (3), paragraph (b) of subsection (4) and subsections (5), (6), and (7) of section 553.73, Florida Statutes, as amended by section 40 of chapter 98-287, Laws of Florida, as amended by section 61 of chapter 98-419, Laws of Florida, as amended by sections 73, 74, and 75 of chapter 2000-141, Laws of Florida, and section 62 of chapter 2000-154, Laws of Florida, are amended, and present subsections (8), (9), and (10) of that section are redesignated as subsections (9), (10), and (11), respectively, to read:

553.73 State Minimum Building Codes.—

(2) The Florida Building Code shall contain provisions or requirements for public and private buildings, structures, and facilities relative to structural, mechanical, electrical, plumbing, energy, and gas systems, existing buildings, historical buildings, manufactured buildings, elevators, coastal construction, lodging facilities, food sales and food service facilities, health care facilities, including assisted living facilities, adult day care facilities, and facilities for the control of radiation hazards, public or private educational facilities, swimming pools, and correctional facilities and enforcement of and compliance with such provisions or requirements. *Further, the Florida Building Code must provide for uniform implementation of ss. 515.25, 515.27, and 515.29 by including standards and criteria for residential swimming pool barriers, pool covers, latching devices, door and window exit alarms, and other equipment required therein, which are consistent with the intent of s. 515.23.* Technical provisions to be contained within the Florida Building Code are restricted to requirements related to the types of materials used and construction methods and standards employed in order to meet criteria specified in the Florida Building Code. Provisions relating to the personnel, supervision or training of personnel, or any other professional qualification requirements relating to contractors or their workforce may not be included within the Florida Building Code, and subsections (4), (5), and (6) are not to be construed to allow the inclusion of such provisions within the Florida Building Code by amendment. This restriction applies to both initial development and amendment of the Florida Building Code.

(3) The commission shall select from available national or international model building codes, or other available building codes and standards currently recognized by the laws of this state, to form the foundation for the Florida Building Code. The commission may modify the selected model codes and standards as needed to accommodate the specific needs of this state. Standards or criteria referenced by the selected model codes shall be similarly incorporated by reference. If a referenced standard or criterion requires amplification or modification to be appropriate for use in this state, only the amplification or modification shall be specifically set forth in the Florida Building Code. *The Florida Building Commission may approve technical amendments to the code after the amendments have been subject to the following conditions:*

(a) The proposed amendment has been published on the commission's website for a minimum of 45 days and all the associated documentation has been made available to any interested party before any consideration by any Technical Advisory Committee;

(b) In order for a Technical Advisory Committee to make a favorable recommendation to the commission, the proposal must receive a three-fourths vote of the members present at the Technical Advisory Committee meeting and at least half of the regular members must be present in order to conduct a meeting;

(c) After Technical Advisory Committee consideration and a recommendation for approval of any proposed amendment, the proposal must be published on the commission's website for not less than 45 days before any consideration by the commission; and

(d) Any proposal may be modified by the commission based on public testimony and evidence from a public hearing held in accordance with chapter 120.

The commission shall incorporate within sections of the Florida Building Code provisions which address regional and local concerns and variations. The commission shall make every effort to minimize conflicts between the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code.

(4)

(b) Local governments may, subject to the limitations of this section, adopt amendments to the technical provisions of the Florida Building

Code which apply solely within the jurisdiction of such government and which provide for more stringent requirements than those specified in the Florida Building Code, not more than once every 6 months, provided:

1. The local governing body determines, following a public hearing which has been advertised in a newspaper of general circulation at least 10 days before the hearing, that there is a need to strengthen the requirements of the Florida Building Code. The determination must be based upon a review of local conditions by the local governing body, which review demonstrates that local conditions justify more stringent requirements than those specified in the Florida Building Code for the protection of life and property.

2. Such additional requirements are not discriminatory against materials, products, or construction techniques of demonstrated capabilities.

3. Such additional requirements may not introduce a new subject not addressed in the Florida Building Code.

4. The enforcing agency shall make readily available, in a usable format, all amendments adopted pursuant to this section.

5. Any amendment to the Florida Building Code shall be transmitted within 30 days by the adopting local government to the commission. The commission shall maintain copies of all such amendments in a format that is usable and obtainable by the public.

6. Any amendment to the Florida Building Code adopted by a local government pursuant to this paragraph shall be effective only until the adoption by the commission of the new edition of the Florida Building Code every third year. At such time, the commission shall review such amendment for consistency with the criteria in paragraph (6)(a) and adopt such amendment as part of the Florida Building Code or rescind the amendment. The commission shall immediately notify the respective local government of the rescission of any amendment. After receiving such notice, the respective local government may readopt the rescinded amendment pursuant to the provisions of this paragraph.

7. Each county and municipality desiring to make local technical amendments to the Florida Building Code shall by interlocal agreement establish a countywide compliance review board to review any amendment to the Florida Building Code, adopted by a local government within the county pursuant to this paragraph, that is challenged by any substantially affected party for purposes of determining the amendment's compliance with this paragraph. If the compliance review board determines such amendment is not in compliance with this paragraph, the compliance review board shall notify such local government of the noncompliance and that the amendment is invalid and unenforceable until the local government corrects the amendment to bring it into compliance. The local government may appeal the decision of the compliance review board to the commission*, which shall conduct a hearing under chapter 120 and the uniform rules of procedure*. If the compliance review board determines such amendment to be in compliance with this paragraph, any substantially affected party may appeal such determination to the commission*, which shall conduct a hearing under chapter 120 and the uniform rules of procedure*. Actions of the commission are subject to judicial review pursuant to s. 120.68. The compliance review board shall determine whether its decisions apply to a respective local jurisdiction or apply countywide.

8. An amendment adopted under this paragraph shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance. The fiscal impact statement may not be used as a basis for challenging the amendment for compliance.

9. In addition to subparagraphs 7. and 8., the commission may review any amendments adopted pursuant to this subsection and make nonbinding recommendations related to compliance of such amendments with this subsection.

(5) ~~The commission, by rule adopted pursuant to ss. 120.536(1) and 120.54, shall update the Florida Building Code every 3 years.~~ The initial adoption of, and any subsequent update or amendment to, the Florida Building Code by the commission is deemed adopted for use statewide without adoptions by local government. *For a building permit for which an application is submitted prior to the effective date of the Florida Building Code, the state minimum building code in effect in the permitting jurisdiction on the date of the application governs the permitted work for the life of the permit and any extension granted to the permit.*

(6) The commission, by rule adopted pursuant to ss. 120.536(1) and 120.54, shall update the Florida Building Code every 3 years. When updating the Florida Building Code, the commission shall consider changes made by the adopting entity of any selected model code for any model code incorporated into the Florida Building Code, and may subsequently adopt the new edition or successor of the model code or any part of such code, *no sooner than 6 months after such model code has been adopted by the adopting organization,* which may then be modified for this state as provided in this section, and shall further consider the commission's own interpretations, declaratory statements, appellate decisions, and approved statewide and local technical amendments. A change made by an institute or standards organization to any standard or criterion that is adopted by reference in the Florida Building Code does not become effective statewide until it has been adopted by the commission. *Furthermore,* the edition of the Florida Building Code which is in effect on the date of application *for* ~~of~~ any permit authorized by the code governs the permitted work for the life of the permit and any extension granted to the permit. Any amendment to the Florida Building Code which is adopted upon a finding by the commission that the amendment is necessary to protect the public from immediate threat of harm takes effect immediately.

(7)~~(6)~~(a) The commission may approve technical amendments to the Florida Building Code once each year for statewide or regional application upon a finding that the amendment:

1. Has a reasonable and substantial connection with the health, safety, and welfare of the general public.

2. Strengthens or improves the Florida Building Code, or in the case of innovation or new technology, will provide equivalent or better products or methods or systems of construction.

3. Does not discriminate against materials, products, methods, or systems of construction of demonstrated capabilities.

4. Does not degrade the effectiveness of the Florida Building Code.

Furthermore, the Florida Building Commission may approve technical amendments to the code once each year to incorporate into the Florida Building Code its own interpretations of the code which are embodied in its opinions and declaratory statements. Amendments approved under this paragraph shall be adopted by rule pursuant to ss. 120.536(1) and 120.54*, after the amendments have been subjected to the provisions of subsection (3)*.

(b) A proposed amendment shall include a fiscal impact statement which documents the costs and benefits of the proposed amendment. Criteria for the fiscal impact statement shall be established by rule by the commission and shall include the impact to local government relative to enforcement, the impact to property and building owners, as well as to industry, relative to the cost of compliance.

(c) The commission may not approve any proposed amendment that does not accurately and completely address all requirements for amendment which are set forth in this section.

(8)~~(7)~~ The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:

(a) Buildings and structures specifically regulated and preempted by the Federal Government.

(b) Railroads and ancillary facilities associated with the railroad.

(c) Nonresidential farm buildings on farms.

(d) Temporary buildings or sheds used exclusively for construction purposes.

(e) Mobile homes used as temporary offices, except that the provisions of part V relating to accessibility by persons with disabilities shall apply to such mobile homes.

(f) Those structures or facilities of electric utilities, as defined in s. 366.02, which are directly involved in the generation, transmission, or distribution of electricity.

(g) Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.

(h) Storage sheds that are not designed for human habitation and that have a floor area of 720 square feet or less are not required to comply with the mandatory wind-borne-debris-impact standards of the Florida Building Code.

(i) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. For purposes of this paragraph, a "chickee" means an open-sided wooden hut with a thatched roof of palm or palmetto or other traditional materials, not incorporating any electrical, plumbing or other nonwood features.

With the exception of paragraphs (a), (b), (c), and (f), in order to preserve the health, safety, and welfare of the public, the Florida Building Commission may, by rule adopted pursuant to chapter 120, provide for exceptions to the broad categories of buildings exempted in this section, including exceptions for application of specific sections of the code or standards adopted therein. The Department of Agriculture and Consumer Services shall have exclusive authority to adopt by rule, pursuant to chapter 120, exceptions to nonresidential farm buildings exempted in paragraph (c) when reasonably necessary to preserve public health, safety, and welfare. The exceptions must be based upon specific criteria, such as under-roof floor area, aggregate electrical service capacity, HVAC system capacity, or other building requirements. Further, the commission may recommend to the Legislature additional categories of buildings, structures, or facilities which should be exempted from the Florida Building Code, to be provided by law.

Section 13. Paragraphs (e) and (h) of subsection (1) and subsections (2) and (6) of section 553.77, Florida Statutes, as amended by section 46 of chapter 98-287, Laws of Florida, as amended by section 78 of chapter 2000-141, Laws of Florida, as amended by section 79 of chapter 2000-141, Laws of Florida, are amended, and subsection (7) is added to that section, to read:

553.77 Specific powers of the commission.—

(1) The commission shall:

(e) When requested in writing by any substantially affected person, state agency, or a local enforcing agency, shall issue declaratory statements pursuant to s. 120.565 relating to this part *and ss. 515.25, 515.27, 515.29, and 515.37*. Actions of the commission are subject to judicial review pursuant to s. 120.68.

(h) Hear appeals of the decisions of local boards of appeal regarding interpretation decisions of local building officials, or if no local board exists, hear appeals of decisions of the building officials regarding interpretations of the code. For such appeals:

1. Local decisions declaring structures to be unsafe and subject to repair or demolition shall not be appealable to the commission if the local governing body finds there is an immediate danger to the health and safety of its citizens.

2. All appeals shall be heard in the county of the jurisdiction defending the appeal.

3. *Hearings shall be conducted pursuant to chapter 120 and the uniform rules of procedure, and decisions* ~~Actions~~ of the commission are subject to judicial review pursuant to s. 120.68.

~~(2) With respect to the qualification program for special inspectors of threshold buildings as required by s. 553.79(5)(c), the commission may prescribe initial and annual renewal fees for certification, by rule, in accordance with chapter 120.~~

(6) The commission may provide by rule for plans review and approval of prototype buildings owned by public and private entities to be replicated throughout the state. *The rule must allow for review and approval of plans for prototype buildings to be performed by a public or private entity with oversight by the commission. The department may charge reasonable fees to cover the administrative costs of the program.* Such approved plans or prototype buildings shall be exempt from further review required by s. 553.79(2), except changes to the prototype design, site plans, and other site-related items. *As provided in s. 553.73, prototype buildings are exempt from*~~, or~~ any *locally adopted* ~~local~~ amendment to any part of the Florida Building Code. Construction or erection of such prototype buildings is subject to local permitting and inspections pursuant to this part.

(7) The commission may produce and distribute a commentary document to accompany the Florida Building Code. The commentary must be limited in effect to providing technical assistance and must not have the effect of binding interpretations of the code document itself.

Section 14. Subsections (2) and (6) of section 553.79, Florida Statutes, as amended by section 49 of chapter 98-287, Laws of Florida, as amended by sections 83 and 84 of chapter 2000-141, Laws of Florida, are amended to read:

553.79 Permits; applications; issuance; inspections.—

(2) *Except as provided in subsection (6), an* ~~No~~ enforcing agency may *not* issue any permit for construction, erection, alteration, modification, repair, or demolition of any building or structure until the local building code administrator or inspector has reviewed the plans and specifications *required by the Florida Building Code, or local amendment thereto,* for such proposal and found the plans to be in compliance with the Florida Building Code. In addition, an enforcing agency may not issue any permit for construction, erection, alteration, modification, repair, or demolition of any building until the appropriate firesafety inspector certified pursuant to s. 633.081 has reviewed the plans and specifications *required by the Florida Building Code, or local amendment thereto,* for such proposal and found that the plans comply with the Florida Fire Prevention Code and the Life Safety Code. Any building or structure which is not subject to a firesafety code shall not be required to have its plans reviewed by the firesafety inspector. Any building or structure that is exempt from the local building permit process may not be required to have its plans reviewed by the local building code administrator. Industrial construction on sites where design, construction, and firesafety are supervised by appropriate design and inspection professionals and which contain adequate in-house fire departments and rescue squads is exempt, subject to local government option, from review of plans and inspections, providing owners certify that applicable codes and standards have been met and supply appropriate approved drawings to local building and firesafety inspectors. The enforcing agency shall issue a permit to construct, erect, alter, modify, repair, or demolish any building or structure when the plans and specifications for such proposal comply with the provisions of the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code as determined by the local authority in accordance with this chapter and chapter 633.

(6) A permit may not be issued for any building construction, erection, alteration, modification, repair, or addition unless the applicant for such permit complies with the requirements for plan review established by the Florida Building Commission within the Florida Building Code. *However, the code shall set standards and criteria to authorize preliminary construction before completion of all building plans review, including, but not limited to, special permits for the foundation only, and such standards shall take effect concurrent with the first effective date of the Florida Building Code.*

Section 15. Effective upon this act becoming a law, section 553.8412, Florida Statutes, is created to read:

553.8412 Legislative intent; delivery of training; outsourcing.—

(1) The number of licensees who will require initial training for the Florida Building Code is in excess of 100,000. It is the intent of the Legislature that the Florida Building Commission make sure that initial training for the Florida Building Code be achieved as soon as practicable to ensure compliance. It is further the intent of the Legislature that the Florida Building Commission encourage and promote improved coordination between industry associations as a way to achieve better compliance with Florida's building codes.

(2) Not more than 60 days after the effective date of this section, the Florida Building Commission and the department shall provide for statewide outreach for training on the Florida Building Code. The Florida Building Commission and the department shall achieve statewide outreach for training through organizations, including, but not limited to, existing licensee trade and professional associations. The Florida Building Commission or the department may not exclude participation in statewide outreach by any trade or professional association that has as its primary constituency members who are required to comply with the training requirements of the Florida Building Code. Wherever possible and by contract pursuant to s. 287.057, the Florida Building Commission and the department shall outsource components, outreach, and coordination of training and the training itself to prevent duplication and ensure the most expeditious and consistent delivery and minimize administrative costs to the commission and the department. This section does not prohibit any qualified entity from providing training on the Florida Building Code.

(3) To the extent available, funding for outreach, coordination of training, or training may come from existing resources. If necessary, the Florida Building Commission or the department may seek additional or supplemental funds pursuant to s. 215.559(5). This section does not preclude the Florida Building Commission from charging fees to fund the building code training program in a self-sufficient manner as provided in s. 553.841(5).

(4) This section is repealed June 30, 2003, unless reenacted by the Legislature.

Section 16. Effective July 1, 2001, section 553.842, Florida Statutes, is amended to read:

553.842 Product evaluation and approval.—

(1) The commission shall *adopt rules under ss. 120.536(1) and 120.54* ~~make recommendations to the President of the Senate and the Speaker of the House of Representatives prior to the 2001 Regular Session~~ to develop and implement a product evaluation and approval system *that applies statewide* to operate in coordination with the Florida Building Code. *The commission may enter into contracts to provide for administration of the product evaluation and approval system.* The product evaluation and approval system shall provide:

(a) Appropriate promotion of innovation and new technologies.

(b) Processing submittals of products from manufacturers in a timely manner.

(c) Independent, third-party qualified and accredited testing and laboratory facilities*, product evaluation entities, quality-assurance agencies, certification agencies, and validation entities*.

(d) An easily accessible product acceptance list to entities subject to the Florida Building Code.

(e) Development of stringent but reasonable testing criteria based upon existing consensus standards, when available, for products.

(f) Long-term approvals, where feasible. *State and local approvals will be valid until the requirements of the code on which the approval is based change, the product changes in a manner affecting its performance as required by the code, or the approval is revoked.*

(g) *Criteria for* ~~recall or~~ revocation of a product approval.

(h) Cost-effectiveness.

(2) The product evaluation and approval system shall rely on ~~regional,~~ national~~,~~ and international consensus standards, whenever adopted by the Florida Building Code, for demonstrating compliance with code standards. Other standards which meet or exceed established state requirements shall also be considered.

(3) Products or methods or systems of construction *that require approval under s. 553.77, that have standardized testing or comparative or rational analysis methods established by the code,* ~~required to be approved~~ and *that are* certified by an approved product evaluation entity*, testing laboratory, or certification agency* as complying with the standards specified by the code shall be *approved for local or statewide use by one of the methods established in subsection (6)* ~~permitted to be used statewide,~~ without further evaluation ~~or approval~~.

(4) *By October 1, 2003, products or methods or systems of construction requiring approval under s. 553.77 must be approved by one of the methods established in subsection (5) or subsection (6) before their use in construction in this state.* Products may be approved either by the commission for statewide use, or by a local building department for use in that department's jurisdiction only. Notwithstanding a local government's authority to amend the Florida Building Code as provided in this act, statewide approval shall preclude local jurisdictions from requiring further testing, evaluation, or submission of other evidence as a condition of using the product so long as the product is being used consistent with the conditions of its approval.

(5) ~~Statewide and~~ Local approval of products or methods or systems of construction *may* ~~shall~~ be achieved by *the local building official through building plans review and inspection to determine that the product, method, or system of construction complies with the prescriptive standards established in the code. Alternatively, local approval may be achieved by one of the methods established in subsection (6).*

(6) Statewide or local approval of products, methods, or systems of construction may be achieved by one of the following methods. One of these methods must be used by local officials or the commission to approve the following categories of products: panel walls, exterior doors, roofing, skylights, windows, shutters, and structural components as established by the commission by rule.

(a) Products for which the code establishes standardized testing or comparative or rational analysis methods shall be approved by submittal and validation of one of the following reports or listings indicating that the product or method or system of construction was evaluated to be in compliance with the Florida Building Code and that the product or method or system of construction is, for the purpose intended, at least equivalent to that required by the Florida Building Code:

1. A certification mark or listing of an approved certification agency;

2. A test report from an approved testing laboratory;

3. A product evaluation report based upon testing or comparative or rational analysis, or a combination thereof, from an approved product evaluation entity; or

4. A product evaluation report based upon testing or comparative or rational analysis, or a combination thereof, developed and signed and sealed by a professional engineer or architect, licensed in this state.

(b) Products, methods, or systems of construction for which there are no specific standardized testing or comparative or rational analysis methods established in the code may be approved by submittal and validation of one of the following:

1. A product evaluation report based upon testing or comparative or rational analysis, or a combination thereof, from an approved product evaluation entity indicating that the product or method or system of construction was evaluated to be in compliance with the intent of the Florida Building Code and that the product or method or system of construction is, for the purpose intended, at least equivalent to that required by the Florida Building Code; or

2. A product evaluation report based upon testing or comparative or rational analysis, or a combination thereof, developed and signed and

sealed by a professional engineer or architect, licensed in this state, who certifies that the product or method or system of construction is, for the purpose intended, at least equivalent to that required by the Florida Building Code.

(7) The commission shall ensure that product manufacturers operate quality-assurance programs for all approved products. The commission shall adopt by rule criteria for operation of the quality-assurance programs.

(8) For local approvals, validation shall be performed by the local building official. The commission shall adopt by rule criteria constituting complete validation by the local official, including, but not limited to, criteria governing verification of a quality-assurance program. For state approvals, validation shall be performed by validation entities approved by the commission. The commission shall adopt by rule criteria for approval of validation entities, which shall be third-party entities independent of the product's manufacturer and which shall certify to the commission the product's compliance with the code.

(9) The commission may adopt rules to approve the following types of entities that produce information on which product approvals are based. All of the following entities, including engineers and architects, must comply with a nationally recognized standard demonstrating independence or no conflict of interest:

(a) Evaluation entities that meet the criteria for approval adopted by the commission by rule. The commission shall specifically approve the National Evaluation Service, the International Conference of Building Officials Evaluation Services, the Building Officials and Code Administrators International Evaluation Services, the Southern Building Code Congress International Evaluation Services, and the Miami-Dade County Building Code Compliance Office Product Control. Architects and engineers licensed in this state are also approved to conduct product evaluations as provided in subsection (6).

(b) Testing laboratories accredited by national organizations, such as A2LA and the National Voluntary Laboratory Accreditation Program, laboratories accredited by evaluation entities approved under paragraph (a), and laboratories that comply with other guidelines for testing laboratories selected by the commission and adopted by rule.

(c) Quality-assurance entities approved by evaluation entities approved under paragraph (a) and by certification agencies approved under paragraph (d) and other quality-assurance entities that comply with guidelines selected by the commission and adopted by rule.

(d) Certification agencies accredited by nationally recognized accreditors and other certification agencies that comply with guidelines selected by the commission and adopted by rule.

(e) Validation entities that comply with accreditation standards established by the commission by rule.~~:~~

~~(a) Submittal and validation of a product evaluation report from an approved product evaluation entity indicating the product or method or system of construction was tested to be in compliance with the Florida Building Code or with the intent of the Florida Building Code and the product or method or system of construction is, for the purpose intended, at least equivalent of that required by the Florida Building Code; or~~

~~(b) Submittal and validation of a product evaluation report or rational analysis which is signed and sealed by a professional engineer or architect, licensed in this state, who has no conflict of interest, as determined by national guidelines, who certifies that the product or method or system of construction is, for the purpose intended, at least equivalent of that required by the Florida Building Code. Any product approved under this procedure shall be required to be manufactured under a quality assurance program, certified by an approved product evaluation entity.~~

(10)~~(6)~~ A building official may deny the local application of a product or method or system of construction which has received statewide approval, based upon a written report signed by the official that concludes the product application is inconsistent with the statewide approval and that states the reasons the application is inconsistent. Such denial is subject to the provisions of s. 553.77 *governing appeal of the building official's interpretation of the code*.

(11)~~(7)~~ Products, other than manufactured buildings, which are custom fabricated or assembled shall not require separate approval under this section provided the component parts have been approved for the fabricated or assembled product's use and the components meet the standards and requirements of the Florida Building Code which applies to the product's intended use.

(12)~~(8)~~ A building official may appeal the required approval for local use of a product or method or system of construction to the commission. The commission shall *conduct a hearing under chapter 120 and the uniform rules of procedure and shall* ~~establish expedited procedures to~~ handle such appeals *in an expedited manner*.

(13)~~(9)~~ The decisions of local building officials shall be appealable to the local board of appeals, if such board exists, *and* then to the commission*, which shall conduct a hearing under chapter 120 and the uniform rules of procedure*. Decisions of the commission regarding statewide product approvals and appeals of local product approval shall be subject to judicial review pursuant to s. 120.68.

(14)~~(10)~~ The commission shall maintain a list of the *state-approved* ~~approved~~ products*,* ~~and~~ product evaluation entities*, testing laboratories, quality-assurance agencies, certification agencies, and validation entities* and make such *lists* ~~list~~ available in the most cost-effective manner. The commission shall establish reasonable timeframes associated with the product approval process and availability of the *lists* ~~list~~.

(15) The commission shall by rule establish criteria for revocation of product approvals as well as revocation of approvals of product evaluation entities, testing laboratories, quality-assurance entities, certification agencies, and validation entities. Revocation is governed by s. 120.60 and the uniform rules of procedure.

(16) The commission shall establish a schedule for adoption of the rules required in this section to ensure that the product manufacturing industry has sufficient time to revise products to meet the requirements for approval and submit them for testing or evaluation before the system taking effect on October 1, 2003, and to ensure that the availability of statewide approval is not delayed.

~~(11) The commission may establish reasonable and appropriate fees for the review of rational analyses and certification of manufactured buildings submitted pursuant to this section and may enter into any contracts the commission deems necessary in order to implement this section.~~

~~(12) Products certified or approved for statewide or local use by an approved product evaluation entity prior to the effective date of this act shall be deemed to be approved for use in this state pursuant to this section and to comply with this section.~~

~~For purposes of this section, an approved product evaluation entity is an entity that has been accredited by a nationally recognized independent evaluation authority or entity otherwise approved by the commission.~~

Section 17. Effective July 1, 2001, subsection (2) of section 553.895, Florida Statutes, is amended to read:

553.895 Firesafety.—

(2) Except for single-family and two-family dwellings, any building which is of three stories or more and for which the construction contract is let after January 1, 1994, regardless of occupancy classification and including any building which is subject to s. 509.215, shall be equipped with an automatic sprinkler system installed in compliance with the provisions of chapter 633 and the rules and codes adopted pursuant thereto. A stand-alone parking garage constructed with noncombustible materials, the design of which is such that all levels of the garage are uniformly open to the atmosphere on all sides with percentages of openings as prescribed in the applicable building code, and which

parking garage is separated from other structures by at least 20 feet, is exempt from the requirements of this subsection. *Telecommunications spaces located within telecommunications buildings, if the spaces are equipped to meet an equivalent fire-prevention standard approved by both the Florida Building Commission and the State Fire Marshal, are exempt from the requirements of this subsection. In a building less than 75 feet in height which is protected throughout with an approved and maintained fire sprinkler system, a manual wet standpipe, as defined in the National Fire Protection Association Standard 14, Standard for the Installation of Standpipe, Private Hydrant, and Hose Systems, shall be allowed.*

Section 18. *Effective upon this act becoming a law, the Florida Building Commission shall research the issue of adopting a rehabilitation code for the state and shall report to the Legislature before the 2002 Regular Session regarding the feasibility of adopting such a code. The commission shall review the rehabilitation codes adopted by other states as part of its research.*

Section 19. *Effective upon this act becoming a law, the Florida Building Commission shall research the issue of requiring all primary elevators in buildings with more than five levels to operate with a universal key, thereby allowing access and operation by emergency personnel. The commission must report its recommendations to the Legislature before the 2002 Regular Session.*

Section 20. *Notwithstanding any other provision in chapter 2000-141, Laws of Florida, effective upon this act becoming a law, the effective date of the following sections of chapter 2000-141, Laws of Florida, is changed to January 1, 2002: sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 32, 36, 39, 44, 47, 48, 49, 52, 54, 56, 58, 59, 60, 62, 70, 71, 72, 75, 79, 81, 84, 86, 87, 88, 91, 92, 93, 94, and 99.*

Section 21. *Notwithstanding any other provision in chapter 2000-141, Laws of Florida, effective upon this act becoming a law, the effective date of the following sections of chapter 98-287, Laws of Florida, as amended by chapter 2000-141, Laws of Florida, is changed to January 1, 2002: sections 1, 2, 4, 5, 7, 9, 13, 14, 15, 16, 17, 18, 21, 24, 29, 31, 32, 34, 36, 38, 40, 44, 46, 47, 49, 51, and 56.*

Section 22. *Notwithstanding any other provision in chapter 2000-141, Laws of Florida, effective upon this act becoming a law, the effective date of section 61 of chapter 98-419, Laws of Florida, as amended by chapter 2000-141, Laws of Florida, is changed to January 1, 2002.*

Section 23. Effective upon this act becoming a law, section 135 of chapter 2000-141, Laws of Florida, is amended to read:

Section 135. Effective *January 1, 2002* ~~July 1, 2001~~, subsection (2) of section 255.21, Florida Statutes, paragraphs (d) and (e) of subsection (1) of section 395.1055, Florida Statutes, and subsection (11) of section 553.79, Florida Statutes, are repealed.

Section 24. Effective upon this act becoming a law, subsection (2) of section 62 of chapter 98-287, Laws of Florida, as amended by section 107 of chapter 2000-141, Laws of Florida, is amended to read:

Section 62.

(2) Effective *January 1, 2002* ~~July 1, 2001~~, all existing local technical amendments to any building code adopted by any local government, except for local ordinances setting forth administrative requirements which are not in conflict with the Florida Building Code, are repealed. Each local government may readopt such amendments pursuant to s. 553.73, Florida Statutes, provided such amendments comply with applicable provisions of the Florida Building Code.

Section 25. Effective upon this act becoming a law, section 68 of chapter 98-287, Laws of Florida, as amended by section 108 of chapter 2000-141, Laws of Florida, is amended to read:

Section 68. Effective *January 1, 2002* ~~July 1, 2001~~, parts I, II, and III of chapter 553, Florida Statutes, consisting of sections 553.01, 553.02, 553.03, 553.04, 553.041, 553.05, 553.06, 553.07, 553.08, 553.10, 553.11, 553.14, 553.15, 553.16, 553.17, 553.18, 553.20, 553.21, 553.22, 553.23, 553.24, 553.25, 553.26, 553.27, and 553.28, Florida Statutes, are repealed, section 553.141, Florida Statutes, is transferred and renumbered as section 553.86, Florida Statutes.

Section 26. *Effective upon this act becoming a law, funds that are available under sections 489.109(3) and 489.509(3), Florida Statutes, shall be allocated and expended by the Florida Building Commission as provided in this section.*

(1) The Florida Building Commission shall appoint those members of the Building Construction Industry Advisory Committee on October 1, 2001, as established by Rule 6A-10.029, Florida Administrative Code, to the Education Technical Advisory Committee of the Florida Building Commission to complete their terms of office. Members of the Florida Building Commission shall also be appointed to the Education Technical Advisory Committee. The members of the committee shall broadly represent the building construction industry and must consist of no fewer than 10 persons. The chairperson of the Florida Building Commission shall annually designate the chairperson of the committee. The terms of the committee members shall be 2 years each and members may be reappointed at the discretion of the Florida Building Commission.

(2) The Educational Technical Advisory Committee shall:

(a) Advise the commission on any policies or procedures needed to administer sections 489.109(3) and 489.509(3), Florida Statutes.

(b) Advise the commission on administering section 553.841, Florida Statutes.

(c) Advise the commission on areas of priority for which funds should be expended for research and continuing education.

(d) Review all proposed research and continuing education projects and recommend to the commission those projects that should be funded and the amount of funds to be provided for each project.

(3) Each biennium, upon receipt of funds by the Department of Community Affairs from the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board provided under sections 489.109(3) and 489.509(3), Florida Statutes, the commission shall determine the amount of funds available for research projects from the proceeds of contractor licensing fees and identify, solicit, and accept funds from other sources for research and continuing education projects.

(4) If funds collected for research projects in any year do not require the use of all available funds, the unused funds shall be carried forward and allocated for use during the following fiscal year.

Section 27. *Effective upon this act becoming a law, the Florida Building Commission shall convene an ad hoc subcommittee to recommend a procedure by which the public could elect to engage an engineer or architect to perform plans review and inspection for the construction, alteration, repair, or improvement of real property, and the appropriate role of the local building official in such an alternative plans review and inspection procedure and in the resulting issuance of a building permit and certificate of occupancy.*

(1) The ad hoc committee shall be composed of 11 members appointed by the chairperson of the commission who shall meet the following qualifications:

(a) Five members from the Building Officials Association of Florida;

(b) Two members from the Associated General Contractors of Florida;

(c) One member from the Florida Homebuilders Association;

(d) One member from the Florida Engineering Society;

(e) One member from the American Institute of Architects; and

(f) One member from the Florida Insurance Council.

(2) The ad hoc subcommittee shall meet at least four times prior to January 1, 2002. Members may participate in any meeting via telephone conference if the technology is available at the meeting location. Members

shall serve on a voluntary basis, without compensation and without reimbursement of per diem and travel expenses.

(3) The ad hoc subcommittee shall examine the various processes used by local building officials throughout the state in conducting plans review for the construction, alteration, repair, or improvement of real property, and approving building permit applications, as well as those processes used by local building officials in conducting required inspections for construction, alteration, repair, or improvement of real property, and issuing certificates of occupancy. The ad hoc subcommittee shall make recommendations on the following:

(a) A procedure by which the public could elect to engage an engineer or architect to perform plans review and inspection for the construction, alteration, repair, or improvement of real property; and

(b) The appropriate role of the local building official in such an alternative plans review and inspection procedure and in the resulting issuance of a building permit and certificate of occupancy.

(4) The ad hoc subcommittee shall submit to the Florida Building Commission its recommendations and findings by January 1, 2002. The commission shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, before the beginning of the next regularly scheduled legislative session, a report of its findings, which shall include the recommendations of the ad hoc committee.

(5) The Department of Community Affairs shall provide logistical and staff support for the ad hoc subcommittee.

Section 28. Section 627.0629, Florida Statutes, as amended by section 99 of chapter 2000-141, Laws of Florida, is amended to read:

627.0629 Residential property insurance; rate filings.—

(1) A rate filing for residential property insurance must include actuarially reasonable discounts, credits, or other rate differentials, or appropriate reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm have been installed or implemented. The fixtures or construction techniques shall include, but not be limited to, fixtures or construction techniques which enhance roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength. Credits, discounts, or other rate differentials for fixtures and construction techniques which meet the minimum requirements of the Florida Building Code must be included in the rate filing. All insurance companies must make a rate filing which includes the credits, discounts, or other rate differentials by *December 31* ~~June 1~~, 2002.

Section 29. Effective upon this act becoming a law, paragraph (c) of subsection (3) of section 633.0215, Florida Statutes, is amended to read:

633.0215 Florida Fire Prevention Code.—

(3) No later than 180 days before the triennial adoption of the Florida Fire Prevention Code, the State Fire Marshal shall notify each municipal, county, and special district fire department of the triennial code adoption and steps necessary for local amendments to be included within the code. No later than 120 days before the triennial adoption of the Florida Fire Prevention Code, each local jurisdiction shall provide the State Fire Marshal with copies of its local fire code amendments. The State Fire Marshal has the option to process local fire code amendments that are received less than 120 days before the adoption date of the Florida Fire Prevention Code.

(c) Notwithstanding other state or local building and construction code laws to the contrary, locally adopted fire code requirements that were in existence on the effective date of this section shall be deemed local variations of the Florida Fire Prevention Code until the State Fire Marshal takes action to adopt as a statewide firesafety code requirement or rescind such requirements as provided herein, and such action shall take place no later than *January 1, 2002* ~~July 1, 2001~~.

Section 30. *The Florida Building Commission shall research and evaluate the types of specific needs for the state and its localities which are appropriate to justify amendment of the adopted Florida Building Code, as referred to in section 553.73(3), and make recommendations regarding legislative clarification of this issue to the Legislature prior to the 2002 Regular Session. The commission shall consider needs relating to Florida's geographic, climatic, soil, topographic, fire and other conditions as part of its evaluation. The commission shall adopt no amendments to the Florida Building Code until after July 1, 2002, except for the following: emergency amendments, amendments clarifying state agency construction regulations, amendments which eliminate conflicts with Florida law or implement new authorities granted by law, and amendments to implement settlement agreements executed prior to March 1, 2001.*

Section 31. *Effective upon this act becoming a law, the sum of $250,000 is appropriated from the General Revenue Fund to Florida Community College at Jacksonville for the operations of the Institute of Applied Technology in Construction Excellence, and the sum of $250,000 is appropriated from the General Revenue Fund to Miami-Dade Community College for the implementation of the building code training program for inspectors, contractors, architects, and engineers.*

Section 32. Effective upon this act becoming a law, section 1 of chapter 2000-150, Laws of Florida, is repealed.

Section 33. Except as otherwise provided in this act, this act shall take effect January 1, 2002.

And the title is amended as follows:
remove from the title of the bill: entire title

and insert in lieu thereof: A bill to be entitled An act relating to the Florida Building Code; amending s. 235.061, F.S.; delaying the date for rule requirements; amending s. 235.212, F.S.; specifying window standards for relocatable classrooms; amending s. 255.31, F.S.; exempting certain facilities from plans review and inspections by local jurisdictions; amending s. 399.061, F.S.; revising provisions relating to the inspection of elevators; amending s. 373.323, F.S.; authorizing water well contractors to install, repair, or modify specified equipment in accordance with the code; amending s. 489.13, F.S.; creating an exception to the provision defining what constitutes unlicensed contracting; amending s. 489.509, F.S.; transferring specified licensing fees from the Department of Education to the Department of Community Affairs; amending s. 553.36, defining the term "factory-built school shelter"; amending s. 553.415, F.S.; delaying the date for inclusion of the Uniform Code for Public Education Facilities in the Florida Building Code; providing for the department to approve plans for factory-built school shelters; authorizing districts to charge inspection fees; authorizing approved inspection entities to conduct inspections of factory-built school buildings while they are under construction; delaying the deadline for inspecting factory-built buildings currently in use; amending ss. 553.505, 553.507, F.S.; conforming cross-references; amending s. 553.73, F.S.; providing for the uniform implementation of parts of the residential swimming pool safety act; providing a process for the approval of technical amendments to the code; providing for the treatment of permit applications submitted prior to the effective date of the code; exempting specified structures from the wind-borne-debris-impact standards of the Florida Building Code; amending s. 553.77, F.S.; requiring the commission to issue specified declaratory statements; providing for hearings; providing for rules for plan review of prototype buildings; authorizing the commission to produce a commentary to accompany the Florida Building Code; amending s. 553.79, F.S.; requiring the code to establish standards for preliminary construction; creating s. 553.8412, F.S.; providing for statewide outreach for training on the code; amending s. 553.842, F.S.; providing methods for local and statewide approval of products, methods, and systems of construction; providing rulemaking authority; amending s. 553.895, F.S.; exempting specified spaces within telecommunications buildings under specified circumstances; allowing the use of a manual wet standpipe under certain circumstances; directing the commission to research some issues and provide reports to the Legislature; amending s. 135 of ch. 2000-141, Laws of Florida, and ss. 62(2) and 68 of ch. 98-287, Laws of Florida, as amended; providing an effective date for the Florida Building Code; requiring that the

Florida Building Commission appoint members to the commission's Education Technical Advisory Committee; specifying duties of the advisory committee; providing for the carryforward of funds collected for research projects; requiring the Florida Building Commission to convene an ad hoc subcommittee to recommend procedures for engaging an engineer or architect to perform plans review and inspections; requiring recommendations for the role of local building officials in issuing building permits and certificates of occupancy; providing for appointment of members; providing for meetings and staff support by the Department of Community Affairs; requiring a report to the Governor and the Legislature by a specified date; amending s. 627.0629, F.S.; providing a date certain for insurance companies to file rate filings; amending s. 663.0215, F.S.; delaying the date on which the State Fire Marshal is required to adopt a statewide firesafety code; providing an appropriation; repealing section 1 of chapter 2000-150, Laws of Florida, relating to legislative intent regarding the meaning of the terms "net premiums written" and "net premiums collected" as used in chapter 440, F.S.; providing an effective date.

Rep. Diaz-Balart moved the adoption of the amendment.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 601079)

Amendment 1 to Amendment 1—On page 1, line 30, on page 10, line 28, and on page 12, line 3,
remove from the amendment: *January*

and insert in lieu thereof: *July*

Rep. Diaz-Balart moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 114717)

Amendment 2 to Amendment 1 (with title amendment)—On page 6, line 6, through page 7, line 2,
remove from the amendment: all of said lines

And the title is amended as follows:

On page 44, lines 12-14, of the amendment
remove: all of said lines

and insert in lieu thereof: code; amending s.

Rep. Diaz-Balart moved the adoption of the amendment to the amendment.

On motion by Rep. Diaz-Balart, further consideration of **CS/HB 1255**, with pending amendments, was temporarily postponed under Rule 11.10.

HB 1923—A bill to be entitled An act relating to the Department of Business and Professional Regulation; amending s. 20.165, F.S.; renaming the Division of Florida Land Sales, Condominiums, and Mobile Homes as the Division of Condominiums, Timeshare, and Mobile Homes; including reference to the Board of Barbering and Cosmetology; revising minimum requirements for the number of consumer members on professional licensing boards; amending ss. 326.001, 326.002, 326.003, 326.004, and 326.006, F.S.; transferring the regulation of yacht and ship brokers and salespersons from the Division of Florida Land Sales, Condominiums, and Mobile Homes to the Division of Professions; revising provisions relating to criminal history checks and administrative and civil penalties; requiring that all funds collected pursuant to such regulation be deposited into the Professional Regulation Trust Fund; revising references; amending s. 455.213, F.S.; providing that all applications for licensure be prescribed by the department; providing for the electronic submission of information to the department; providing that all legal obligations must be met before the issuance or renewal of a license; amending s. 455.224, F.S.; authorizing any division of the department to issue citations in the enforcement of its regulatory provisions in accordance with the provisions established for such purposes for the regulation of professions; amending ss. 468.401, 468.402, 468.403, 468.404, 468.406, 468.407, 468.410, 468.412, 468.413, 468.414, and 468.415, F.S.; providing for registration of talent agencies in lieu of licensure; conforming provisions; providing penalties; repealing ss. 468.405 and 468.408, F.S., relating to qualification for talent agency license and bonding requirements; amending s. 468.609, F.S.; authorizing direct supervision by building code administrators by telecommunications devices in certain localities and under specified circumstances; amending s. 468.627, F.S.; requiring the payment of costs for certain building code enforcement applicants who fail to appear for scheduled examinations, subject to waiver in case of hardship; amending s. 471.025, F.S.; allowing for more than one type of seal to be used by professional engineers; amending s. 472.003, F.S.; providing exemption from ch. 472, F.S., relating to land surveying and mapping, for certain subordinate employees; revising cross references; amending s. 472.005, F.S.; revising and providing definitions; revising cross references; amending s. 472.029, F.S.; revising provisions relating to access to lands of others for surveying or mapping purposes; providing applicability to subordinates; requiring certain notice; amending s. 810.12, F.S.; revising provisions relating to trespass, to conform; amending ss. 472.001, 472.011, 472.015, 472.021, 472.027, 472.031, and 472.037, F.S.; revising cross references; amending s. 476.034, F.S.; redefining the term "board"; amending s. 476.054, F.S.; creating the Board of Barbering and Cosmetology; providing certain compensation; requiring an oath and providing for a certificate of appointment; providing for officers, meetings, and quorum; amending s. 476.064, F.S.; conforming provisions; amending ss. 476.014, 476.074, 476.154, 476.194, 476.214, and 476.234, F.S.; revising references; amending s. 477.013, F.S.; defining the term "board"; repealing s. 477.015, F.S., relating to the Board of Cosmetology; abolishing the Barbers' Board and the Board of Cosmetology; providing for appointment of all members of the Board of Barbering and Cosmetology to staggered terms; providing savings clauses for rules and legal actions; amending s. 477.019, F.S.; eliminating a requirement for refresher courses and examinations for failure of cosmetology licensees to comply with continuing education requirements; amending s. 477.026, F.S.; providing authority for registration renewal and delinquent fees for hair braiders, hair wrappers, and body wrappers; amending s. 481.209, F.S.; revising requirements relating to education for licensure as an architect; amending s. 481.223, F.S.; providing for injunctive relief for certain violations relating to architecture and interior design; amending s. 489.107, F.S.; reducing the number of members on the Construction Industry Licensing Board; relocating the offices of the board; creating s. 489.1133, F.S.; providing for temporary certificates and registrations; amending s. 489.115, F.S.; eliminating references to divisions of the Construction Industry Licensing Board; amending s. 489.118, F.S.; revising grandfathering provisions for certification of registered contractors to qualify persons holding certain registered local specialty licenses; repealing s. 489.507(6), F.S., to delete a duplicate provision relating to appointment of committees of the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board for the purpose of meeting jointly twice each year; requiring the Electrical Contractors' Licensing Board to develop a plan to reduce its annual operating budget by a specified amount and submit such plan to the department by a specified date; amending s. 489.511, F.S.; revising provisions relating to licensure as an electrical or alarm system contractor by endorsement; amending ss. 498.005, 498.019, and 498.049, F.S.; reassigning the regulation of land sales from the Division of Florida Land Sales, Condominiums, and Mobile Homes to the Division of Real Estate; requiring all funds collected by the department pursuant to the regulation of land sales to be deposited in the Professional Regulation Trust Fund; amending s. 190.009, F.S.; conforming terminology; amending ss. 718.103, 718.105, 718.1255, 718.501, 718.502, 718.504, 718.508, 718.509, 718.608, 719.103, 719.1255, 719.501, 719.502, 719.504, 719.508, 719.608, 721.05, 721.07, 721.08, 721.26, 721.28, 721.301, 721.50, 723.003, 723.006, 723.0065, and 723.009, F.S.; renaming the Division of Florida Land Sales, Condominiums, and Mobile Homes as the Division of Condominiums, Timeshare, and Mobile Homes; renaming the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund as the Division of Condominiums, Timeshare, and Mobile Homes Trust Fund; conforming provisions; providing division enforcement powers and duties; providing

for injunction, restitution, and civil penalties; providing certain immunity; providing for use of certain documents as evidence; providing for certain notice; providing for intervention in suits; locating the executive offices of the division in Tallahassee; authorizing branch offices; providing for adoption and use of a seal; providing applicability to specified chapters of the Florida Statutes; amending ss. 73.073, 192.037, 213.053, 215.20, 380.0651, 455.116, 475.455, 509.512, and 559.935, F.S.; conforming terminology; providing effective dates.

—was read the second time by title.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 634683)

Amendment 1 (with directory language amendment)—On page 58, between lines 28 and 29,
remove from the bill: nothing

and insert in lieu thereof:

(4) The board shall be divided into two divisions, Division I and Division II.

(a) Division I is comprised of the general contractor, building contractor, and residential contractor members of the board; ~~one of the members appointed pursuant to paragraph (2)(j),~~ and ~~one of~~ the *member* ~~members~~ appointed pursuant to paragraph (2)(k). Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.

(b) Division II is comprised of the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the board; *and* ~~one of~~ the *member* ~~members~~ appointed pursuant to paragraph (2)(j)~~; and one of the members appointed pursuant to paragraph (2)(k)~~. Division II has jurisdiction over the regulation of contractors defined in s. 489.105(3)(d)-(p).

(c) Jurisdiction for the regulation of specialty contractors defined in s. 489.105(3)(q) shall lie with the division having jurisdiction over the scope of work of the specialty contractor as defined by board rule.

And the directory language is amended as follows:

On page 57, lines 28 and 29,
remove: all of said lines

and insert in lieu thereof:

Section 54. Effective July 1, 2001, subsections (2) and (4) of section 489.107, Florida Statutes, are amended, and subsection

The Council for Smarter Government offered the following:

(Amendment Bar Code: 661661)

Amendment 2—On page 81, line 28, after *chapter 719,* of the bill

insert: *parts I and II of*

The Council for Smarter Government offered the following:

(Amendment Bar Code: 945791)

Amendment 3—On page 134, line 9,
remove from the bill: 498, 718,

and insert in lieu thereof: ~~498,~~ 718,

The Council for Smarter Government offered the following:

(Amendment Bar Code: 622899)

Amendment 4—On page 48, line 30, through page 49, line 9,
remove from the bill: all of said lines

and insert in lieu thereof:

(2) *Two* ~~Five~~ members of the board *must* ~~shall~~ be *licensed* barbers who have practiced ~~the occupation of~~ barbering in this state for at least 5 years. *Three members must be licensed cosmetologists who have practiced cosmetology in this state for at least 5 years, and one member must be a registered cosmetology specialist who has practiced his or her specialty in this state for at least 5 years.* The remaining *member must* ~~two members of the board shall~~ be *a resident* ~~citizens~~ of the state who *is* ~~are~~ not presently *a* licensed *barber or cosmetologist* ~~barbers~~. No person *may* ~~shall~~ be appointed to the board who is ~~in any way~~ connected with the manufacture, rental, or wholesale distribution of barber *or cosmetology* equipment and supplies.

The Council for Smarter Government offered the following:

(Amendment Bar Code: 512939)

Amendment 5 (with title amendment)—On page 54, lines 4-28,
remove from the bill: all of said lines

and insert in lieu thereof:

(7)(a) The board shall prescribe by rule continuing education requirements intended to ensure protection of the public through updated training of licensees and registered specialists, not to exceed 16 hours biennially, as a condition for renewal of a license or registration as a specialist under this chapter. Continuing education courses shall include, but not be limited to, the following subjects as they relate to the practice of cosmetology: human immunodeficiency virus and acquired immune deficiency syndrome; Occupational Safety and Health Administration regulations; workers' compensation issues; state and federal laws and rules as they pertain to cosmetologists, cosmetology, salons, specialists, specialty salons, and booth renters; chemical makeup as it pertains to hair, skin, and nails; and environmental issues. ~~Courses given at cosmetology conferences may be counted toward the number of continuing education hours required if approved by the board.~~

(b) Any person whose occupation or practice is confined solely to hair braiding, hair wrapping, or body wrapping is exempt from the continuing education requirements of this subsection.

(c) *The board shall by rule establish criteria for the approval of continuing education courses and providers.* ~~The board may, by rule, require any licensee in violation of a continuing education requirement to take a refresher course or refresher course and examination in addition to any other penalty. The number of hours for the refresher course may not exceed 48 hours.~~

(d) The department shall approve all continuing education courses and providers as set forth in this subsection. The department may not approve any course which does not substantially and exclusively relate to the practice of cosmetology and serve to ensure the protection of the public. Courses given at cosmetology conferences may be counted toward the number of continuing education hours required if approved by the department.

(e) Correspondence courses may be approved if offered by a provider approved by the department under paragraph (d) and meet all relevant course criteria established by the board. Correspondence courses must include a written post course examination developed and graded by the course provider which demonstrates the licensee's understanding of the subject matter taught by the course. The board may, by rule, set the minimum allowed passing score for such examinations.

And the title is amended as follows:

On page 3,line 22, after the semicolon

insert: revising requirements related to continuing education providers and courses;

The Council for Smarter Government offered the following:

(Amendment Bar Code: 472871)

Amendment 6 (with title amendment)—On page 17, lines 26-28,
remove from the bill: all of said lines

and insert in lieu thereof: include the applicant's social security number. *Notwithstanding any other provision of law, the department shall be responsible for the printed or electronic content of all initial licensure and licensure renewal documents. Such documents shall require information including, as appropriate: demographics, education, work history, personal background, criminal history, finances, business information, complaints, inspections, investigations, discipline, bonding, signature notarization, photographs, performance periods, reciprocity, local government approvals, supporting documentation, periodic reporting requirements, fingerprint requirements, continuing education requirements, and ongoing education monitoring.* The application shall be supplemented as

And the title is amended as follows:

On page 1, lines 22 and 23,
remove from the title of the bill: all of said lines

and insert in lieu thereof: 455.213, F.S.; providing for the content of licensure and renewal documents;

The Council for Smarter Government offered the following:

(Amendment Bar Code: 981001)

Amendment 7 (with title amendment)—On page 66, line 10, through page 72, line 7,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 68. Section 718.1255, Florida Statutes, is amended to read:

718.1255 Alternative dispute resolution; ~~voluntary mediation;~~ mandatory nonbinding arbitration *and mediation; local resolution; exemptions*; legislative findings.—

(1) *APPLICABILITY* ~~DEFINITIONS~~.—

(a) The provisions of subsection (3) apply to ~~As used in this section, the term "dispute" means~~ any disagreement between two or more parties that involves~~:~~

~~(a) The authority of the board of directors, under this chapter or association document to:~~

~~1. Require any owner to take any action, or not to take any action, involving that owner's unit or the appurtenances thereto.~~

~~2. Alter or add to a common area or element.~~

~~(b)~~ the failure of a governing body, when required by this chapter or an association document, to~~:~~

~~1.~~ properly conduct elections *or to recall a board member*.

(b) The provisions of subsection (4) apply to any disagreement between two or more parties that involves:

1. The authority of the board of directors, under this chapter or an association document, to:

a. Require any owner to take any action, or not to take any action, involving that owner's unit or the appurtenances thereto; or

b. Alter or add to a common area or element.

2. The failure of a governing body, when required by this chapter or an association document, to:

a.~~2.~~ Give adequate notice of meetings or other actions*;*~~.~~

b.~~3.~~ Properly conduct meetings*; or*~~.~~

c.~~4.~~ Allow inspection of books and records.

~~"Dispute" does not include any disagreement that primarily involves: title to any unit or common element; the interpretation or enforcement of any warranty; the levy of a fee or assessment, or the collection of an assessment levied against a party; the eviction or other removal of a tenant from a unit; alleged breaches of fiduciary duty by one or more directors; or claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.~~

~~(2) VOLUNTARY MEDIATION.—Voluntary mediation through Citizen Dispute Settlement Centers as provided for in s. 44.201 is encouraged.~~

(2)~~(3)~~ LEGISLATIVE FINDINGS.—

(a) The Legislature finds that unit owners are frequently at a disadvantage when litigating against an association. Specifically, a condominium association, with its statutory assessment authority, is often more able to bear the costs and expenses of litigation than the unit owner who must rely on his or her own financial resources to satisfy the costs of litigation against the association.

(b) The Legislature finds that the courts are becoming overcrowded with condominium and other disputes, and further finds that alternative dispute resolution has been making progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to court litigation. However, the Legislature also finds that alternative dispute resolution should not be used as a mechanism to encourage the filing of frivolous or nuisance suits.

(c) There exists a need to develop a flexible means of alternative dispute resolution that directs disputes to the most efficient means of resolution.

(d) The high cost and significant delay of circuit court litigation faced by unit owners in the state can be alleviated by requiring nonbinding arbitration and mediation in appropriate cases, thereby reducing delay and attorney's fees while preserving the right of either party to have its case heard by a jury, if applicable, in a court of law.

(3)~~(4)~~ MANDATORY NONBINDING ARBITRATION AND MEDIATION OF DISPUTES.—The division ~~of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation~~ shall *provide* ~~employ full-time attorneys to act as~~ arbitrators to conduct the arbitration hearings *as required* ~~provided~~ by this chapter. The *department may employ attorneys to act as arbitrators, and the* division may also certify attorneys who are not employed by the division to act as arbitrators to conduct the arbitration hearings provided by this *chapter* ~~section~~. No person may be employed by the department as *an* ~~a full-time~~ arbitrator unless he or she is a member in good standing of The Florida Bar. The department shall promulgate rules of procedure to govern such arbitration hearings including mediation incident thereto. The decision of an arbitrator shall be final; however, such a decision shall not be deemed final agency action. Nothing in this provision shall be construed to foreclose parties from proceeding in a trial de novo unless the parties have agreed that the arbitration is binding. If such judicial proceedings are initiated, the final decision of the arbitrator shall be admissible in evidence in the trial de novo.

(a) Prior to the institution of court litigation, a party to a dispute shall petition the division for nonbinding arbitration. The petition must be accompanied by a filing fee in the amount of $50. Filing fees collected under this section must be used to defray the expenses of the alternative dispute resolution program.

(b) The petition must recite, and have attached thereto, supporting proof that the petitioner gave the respondents:

1. Advance written notice of the specific nature of the dispute;

2. A demand for relief, and a reasonable opportunity to comply or to provide the relief; and

3. Notice of the intention to file an arbitration petition or other legal action in the absence of a resolution of the dispute.

Failure to include the allegations or proof of compliance with these prerequisites requires dismissal of the petition without prejudice.

(c) Upon receipt, the petition shall be promptly reviewed by the division to determine the existence of a dispute and compliance with the requirements of paragraphs (a) and (b). If emergency relief is required and is not available through arbitration, a motion to stay the arbitration may be filed. The motion must be accompanied by a verified petition alleging facts that, if proven, would support entry of a temporary injunction, and if an appropriate motion and supporting papers are filed, the division may abate the arbitration pending a court hearing and disposition of a motion for temporary injunction.

(d) Upon determination by the division that a dispute exists and that the petition substantially meets the requirements of paragraphs (a) and (b) and any other applicable rules, a copy of the petition shall forthwith be served by the division upon all respondents.

(e) Either before or after the filing of the respondents' answer to the petition, any party may request that the arbitrator refer the case to mediation under this section and any rules adopted by the division. Upon receipt of a request for mediation, the division shall promptly contact the parties to determine if there is agreement that mediation would be appropriate. If all parties agree, the dispute must be referred to mediation. Notwithstanding a lack of an agreement by all parties, the arbitrator may refer a dispute to mediation at any time.

(f) Upon referral of a case to mediation, the parties must select a mutually acceptable mediator. To assist in the selection, the arbitrator shall provide the parties with a list of both volunteer and paid mediators that have been certified by the division under s. 718.501. If the parties are unable to agree on a mediator within the time allowed by the arbitrator, the arbitrator shall appoint a mediator from the list of certified mediators. If a case is referred to mediation, the parties shall attend a mediation conference, as scheduled by the parties and the mediator. If any party fails to attend a duly noticed mediation conference, without the permission or approval of the arbitrator or mediator, the arbitrator must impose sanctions against the party, including the striking of any pleadings filed, the entry of an order of dismissal or default if appropriate, and the award of costs and attorneys' fees incurred by the other parties. Unless otherwise agreed to by the parties or as provided by order of the arbitrator, a party is deemed to have appeared at a mediation conference by the physical presence of the party or its representative having full authority to settle without further consultation, provided that an association may comply by having one or more representatives present with full authority to negotiate a settlement and recommend that the board of administration ratify and approve such a settlement within 5 days from the date of the mediation conference. The parties shall share equally the expense of mediation, unless they agree otherwise.

(g) The purpose of mediation as provided for by this section is to present the parties with an opportunity to resolve the underlying dispute in good faith, and with a minimum expenditure of time and resources.

(h) Mediation proceedings must generally be conducted in accordance with the Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. Persons who are not parties to the dispute are not allowed to attend the mediation conference without the consent of all parties, with the exception of counsel for the parties and corporate representatives designated to appear for a party. If the mediator declares an impasse after a mediation conference has been held, the arbitration proceeding terminates, unless all parties agree in writing to continue the arbitration proceeding, in which case the arbitrator's decision shall be either binding or nonbinding, as agreed upon by the parties; in the arbitration proceeding, the arbitrator shall not consider any evidence relating to the unsuccessful mediation except in a proceeding to impose sanctions for failure to appear at the mediation conference. If the parties do not agree to continue arbitration, the arbitrator shall enter an order of dismissal, and either party may institute a suit in a court of competent jurisdiction. The parties may seek to recover any costs and attorneys' fees incurred in connection with arbitration and mediation proceedings under this section as part of the costs and fees that may be recovered by the prevailing party in any subsequent litigation.

(i) Arbitration shall be conducted according to rules promulgated by the division. The filing of a petition for arbitration shall toll the applicable statute of limitations.

(j) At the request of any party to the arbitration, such arbitrator shall issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and any party on whose behalf a subpoena is issued may apply to the court for orders compelling such attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided by the Florida Rules of Civil Procedure. Discovery may, in the discretion of the arbitrator, be permitted in the manner provided by the Florida Rules of Civil Procedure. Rules adopted by the division may authorize any reasonable sanctions except contempt for a violation of the arbitration procedural rules of the division or for the failure of a party to comply with a reasonable nonfinal order issued by an arbitrator which is not under judicial review.

(k) The arbitration decision shall be presented to the parties in writing. An arbitration decision is final in those disputes in which the parties have agreed to be bound. An arbitration decision is also final if a complaint for a trial de novo is not filed in a court of competent jurisdiction in which the condominium is located within 30 days. The right to file for a trial de novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the dispute. The prevailing party in an arbitration proceeding shall be awarded the costs of the arbitration and reasonable attorney's fees in an amount determined by the arbitrator. Such an award shall include the costs and reasonable attorney's fees incurred in the arbitration proceeding as well as the costs and reasonable attorney's fees incurred in preparing for and attending any scheduled mediation.

(l) The party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, court costs, and other reasonable costs, including attorney's fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is more favorable, the party who filed a complaint for trial de novo shall be awarded reasonable court costs and attorney's fees.

(m) Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in which the condominium is located. A petition may not be granted unless the time for appeal by the filing of a complaint for trial de novo has expired. If a complaint for a trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has been stayed. If the petition for enforcement is granted, the petitioner shall recover reasonable attorney's fees and costs incurred in enforcing the arbitration award. A mediation settlement may also be enforced through the county or circuit court, as applicable, and any costs and fees incurred in the enforcement of a settlement agreement reached at mediation must be awarded to the prevailing party in any enforcement action.

(4) DISPUTES SUBJECT TO LOCAL RESOLUTION.—Disputes shall be resolved in the county in which the dispute has occurred by a local government alternative dispute resolution, mediation, or arbitration program. Such cases shall be handled by these programs without the necessity of the case being filed in the court system. In the resolution of these cases on the local level, past precedent of prior division arbitration decisions shall be considered and followed where appropriate. Local government alternative dispute resolution, mediation, or arbitration programs may charge fees for handling these cases. The division shall handle any of these cases arising in counties which do not have local government alternative dispute resolution, mediation, or arbitration programs. The division shall provide a list of these programs to anyone requesting this information and shall act as a clearinghouse for disputes, directing affected parties to the appropriate local alternative dispute resolution, mediation, or arbitration program within the county in which the dispute has occurred.

(5) EXEMPTIONS.—A dispute is not subject to resolution under this section if it includes any disagreement that primarily involves:

(a) Title to any unit or common element;

(b) The interpretation or enforcement of any warranty;

(c) The levy of a fee or assessment or the collection of an assessment levied against a party;

(d) The eviction or other removal of a tenant from a unit;

(e) Alleged breaches of fiduciary duty by one or more directors; or

(f) Claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.

Section 69. *The Division of Condominiums, Timeshare, and Mobile Homes of the Department of Business and Professional Regulation shall continue the arbitration of any cases which qualified for arbitration on the date the case was filed with the division and which were filed with the division prior to the date on which this act becomes law.*

Section 70. *There is hereby appropriated 1 FTE and $440,626 from the Division of Condominiums, Timeshare, and Mobile Homes Trust Fund to the Department of Business and Professional Regulation for the purpose of investigating and resolving disputes and dealing with compliance issues relating to condominiums and cooperatives. This appropriation shall not take effect if a similar amount of funding is included in the various appropriations for compliance and enforcement in the Florida Condominiums, Timeshare, and Mobile Homes program in the fiscal year 2001-2002 General Appropriations Act.*

And the title is amended as follows:

On page 5, line 18,

after the second semicolon insert: providing and limiting arbitration of disputes by the division to those regarding elections and the recall of board members; deleting reference to voluntary mediation; providing for the resolution of certain other complaints at the local level; providing exemptions; requiring the continuation of arbitration of cases filed by a certain date; providing a contingent appropriation;

The Council for Smarter Government offered the following:

(Amendment Bar Code: 365231)

Amendment 8 (with title amendment)—On page 17, between lines 18 and 19, of the bill

insert:

Section 8. Section 399.061, Florida Statutes, is amended to read:

399.061 Inspections; correction of deficiencies.—

(1)(a) All elevators *or other conveyances* subject to this chapter must be *annually* inspected *by a certified elevator inspector through a third-party inspection service, or by a municipality or county under contract with the division* pursuant to s. 399.13*. If the elevator or other conveyance is* ~~by a third-party inspection service certified as a qualified elevator inspector or~~ maintained pursuant to a service maintenance contract continuously in force*, it shall be inspected at least once every two years by a certified elevator inspector not employed by or otherwise associated with the maintenance company; however, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection shall be required so long as the service contract remains in effect*. A statement verifying the existence, performance, and cancellation of each service maintenance contract must be filed annually with the division as prescribed by rule. ~~All elevators covered by a service maintenance contract shall be inspected by a certificate of competency holder at least once every 2 years; however, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection shall be required so long as the service contract remains in effect.~~

(b) The division may inspect an elevator whenever necessary to ensure its safe operation *or when a third-party inspection service is not available for routine inspection*.

(2) The division *may* ~~shall~~ employ state elevator inspectors to conduct the inspections *as* required by subsection (1) *and may charge an inspection fee for each inspection sufficient to cover the costs of that inspection, as provided by rule*. Each state elevator inspector shall hold a certificate of competency issued by the division.

(3) Whenever the division determines from the results of any inspection that, in the interest of the public safety, an elevator is in an unsafe condition, the division may seal the elevator or order the discontinuance of the use of the elevator until the division determines by inspection that such elevator has been satisfactorily repaired or replaced so that the elevator may be operated in a safe manner.

(4) When the division determines that an elevator is in violation of this chapter, the division may issue an order to the elevator owner requiring correction of the violation.

And the title is amended as follows:

On page 1, at the end of line 21,
remove from the title of the bill: nothing

and insert in lieu thereof: 399.061, F.S.; revising provisions relating to the inspection of elevators; amending s.

On motion by Rep. Kyle, the council amendments failed of adoption *en bloc*.

Representative(s) Kyle offered the following:

(Amendment Bar Code: 613059)

Amendment 9 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsection (7) is repealed and paragraph (d) of subsection (2), paragraph (a) of subsection (4), and subsection (6) of section 20.165, Florida Statutes, are amended to read:

20.165 Department of Business and Professional Regulation.—There is created a Department of Business and Professional Regulation.

(2) The following divisions of the Department of Business and Professional Regulation are established:

(d) Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes.

(4)(a) The following boards are established within the Division of Professions:

1. Board of Architecture and Interior Design, created under part I of chapter 481.

2. Florida Board of Auctioneers, created under part VI of chapter 468.

3. ~~Barbers'~~ Board *of Barbering and Cosmetology*, created under chapter 476.

4. Florida Building Code Administrators and Inspectors Board, created under part XII of chapter 468.

5. Construction Industry Licensing Board, created under part I of chapter 489.

~~6. Board of Cosmetology, created under chapter 477.~~

6.~~7.~~ Electrical Contractors' Licensing Board, created under part II of chapter 489.

7.~~8.~~ Board of Employee Leasing Companies, created under part XI of chapter 468.

8.~~9.~~ Board of Funeral Directors and Embalmers, created under chapter 470.

9.~~10.~~ Board of Landscape Architecture, created under part II of chapter 481.

10.~~11.~~ Board of Pilot Commissioners, created under chapter 310.

11.~~12.~~ Board of Professional Engineers, created under chapter 471.

12.~~13.~~ Board of Professional Geologists, created under chapter 492.

13.~~14.~~ Board of Professional Surveyors and Mappers, created under chapter 472.

14.~~15.~~ Board of Veterinary Medicine, created under chapter 474.

(6) Each board with ~~five or~~ more *than seven* members shall have at least two consumer members who are not, and have never been, members or practitioners of the profession regulated by such board or of any closely related profession. Each board with *seven or* fewer ~~than five~~ members shall have at least one consumer member who is not, and has never been, a member or practitioner of the profession regulated by such board or of any closely related profession.

~~(7) No board, with the exception of joint coordinatorships, shall be transferred from its present location unless authorized by the Legislature in the General Appropriations Act.~~

Section 2. Section 326.001, Florida Statutes, is amended to read:

326.001 Short title.—*This chapter* ~~Sections 326.001-326.006~~ may be cited as the "Yacht and Ship Brokers' Act."

Section 3. Section 326.002, Florida Statutes, is amended to read:

326.002 Definitions.—As used in *this chapter* ~~ss. 326.001-326.006~~, the term:

(1) "Broker" means a person who, for or in expectation of compensation: sells, offers, or negotiates to sell; buys, offers, or negotiates to buy; solicits or obtains listings of; or negotiates the purchase, sale, or exchange of, yachts for other persons.

(2) *"Department"* ~~"Division"~~ means the ~~Division of Florida Land Sales, Condominiums, and Mobile Homes of the~~ Department of Business and Professional Regulation.

(3) "Salesperson" means a person who, for or in expectation of compensation, is employed by a broker to perform any acts of a broker.

(4) "Yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and which weighs less than 300 gross tons.

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity.

Section 4. Section 326.003, Florida Statutes, is amended to read:

326.003 Administration.—The *department* ~~division~~ shall:

(1) Administer ~~ss. 326.001-326.006~~ and collect fees sufficient to administer *this chapter* ~~ss. 326.001-326.006~~.

(2) Adopt rules pursuant to ss. 120.536(1) and 120.54 *necessary* to *administer this chapter* ~~implement ss. 326.001-326.006~~ and to classify brokers and salespersons and regulate their activities.

(3) Enforce the provisions of *this chapter* ~~ss. 326.001-326.006~~ against any person who operates as a broker or salesperson without a license.

Section 5. Section 326.004, Florida Statutes, is amended to read:

326.004 Licensing.—

(1) A person may not act as a broker or salesperson unless licensed under the Yacht and Ship Brokers' Act. The *department* ~~division~~ shall adopt rules establishing a procedure for the biennial renewal of licenses.

(2) A broker may not engage in business as a broker under a fictitious name unless his or her license is issued in such name.

(3) A license is not required for:

(a) A person who sells his or her own yacht.

(b) An attorney at law for services rendered in his or her professional capacity.

(c) A receiver, trustee, or other person acting under a court order.

(d) A transaction involving the sale of a new yacht.

(e) A transaction involving the foreclosure of a security interest in a yacht.

(4) Any person who purchases a used yacht for resale must transfer title to such yacht into his or her name and maintain the title or bill of sale in his or her possession to be exempt from licensure.

(5) The *department* ~~division~~ by rule shall establish fees for application, initial licensing, biennial renewal, and reinstatement of licenses in an amount not to exceed $500. The fees must be set in an amount that is adequate to proportionately fund the expenses of the *department* ~~division~~ in *this chapter* ~~ss. 326.001-326.006~~.

(6) The *department* ~~division~~ may deny a license *or license renewal* to any applicant who does not:

(a) Furnish proof satisfactory to the *department* ~~division~~ that he or she is of good moral character.

(b) Certify that he or she has never been convicted of a felony.

(c) Post the bond required by the Yacht and Ship Brokers' Act.

(d) Demonstrate that he or she is a resident of this state or that he or she conducts business in this state.

(e) Furnish a full set of fingerprints taken within the 6 months immediately preceding the submission of the application.

(f) Have a current license and has operated as a broker or salesperson without a license.

(7)(a) Before any license may be issued to a yacht or ship broker, he or she must deliver to the *department* ~~division~~ a good and sufficient surety bond or irrevocable letter of credit, executed by the broker as principal, in the sum of $25,000.

(b) Surety bonds and irrevocable letters of credit must be in a form to be approved by the *department* ~~division~~ and must be conditioned upon the broker complying with the terms of any written contract made by such broker in connection with the sale or exchange of any yacht or ship and not violating any of the provisions of the Yacht and Ship Brokers' Act in the conduct of the business for which he or she is licensed. The bonds and letters of credit must be delivered to the *department* ~~division~~ and in favor of any person in a transaction who suffers any loss as a result of any violation of the conditions in *this chapter* ~~ss. 326.001-326.006~~. When the *department* ~~division~~ determines that a person has incurred a loss as a result of a violation of the Yacht and Ship Brokers' Act, it shall notify the person in writing of the existence of the bond or letter of credit. The bonds and letters of credit must cover the license period, and a new bond or letter of credit or a proper continuation certificate must be delivered to the *department* ~~division~~ at the beginning of each license period. However, the aggregate liability of the surety in any one year may not exceed the sum of the bond or, in the case of a letter of credit, the aggregate liability of the issuing bank may not exceed the sum of the credit.

(c) Surety bonds must be executed by a surety company authorized to do business in the state as surety, and irrevocable letters of credit must be issued by a bank authorized to do business in the state as a bank.

(d) Irrevocable letters of credit must be engaged by a bank as an agreement to honor demands for payment as specified in this section.

The security for a broker must remain on deposit for a period of 1 year after he or she ceases to be a broker.

(8) A person may not be licensed as a broker unless he or she has been a salesperson for at least 2 consecutive years, and may not be

licensed as a broker after October 1, 1990, unless he or she has been licensed as a salesperson for at least 2 consecutive years.

(9) An applicant for a salesperson's license or its renewal must deposit with the *department* ~~division~~ a bond or equivalent securities in the sum of $10,000 subject to the conditions in subsection (7).

(10) Upon a final judgment being rendered against a yacht broker or salesperson for a violation of *this chapter* ~~ss. 326.001-326.006~~ which results in any action being commenced on the bond or letter of credit, the *department* ~~division~~ may require the filing of a new bond or letter of credit and immediately on the recovery in any action on such bond or letter of credit, the broker or salesperson involved must file a new bond or letter of credit. His or her failure to do so within 10 days constitutes grounds for the suspension or revocation of his or her license.

(11) Any person injured by the fraud, deceit, or willful negligence of any broker or salesperson or by the failure of any broker or salesperson to comply with the Yacht and Ship Brokers' Act or other law may file an action for damages upon the respective bonds against the principals and the surety.

(12) If a surety notifies the *department* ~~division~~ that it is no longer the surety for a licensee, the *department* ~~division~~ shall notify the licensee of such withdrawal by certified mail, return receipt requested, addressed to the licensee's principal office. Upon the termination of such surety the licensee's license is automatically suspended until he or she files a new bond with the *department* ~~division~~.

(13) Each broker must maintain a principal place of business in this state and may establish branch offices in the state. A separate license must be maintained for each branch office. The *department* ~~division~~ shall establish by rule a fee not to exceed $100 for each branch office license.

(14)(a) Each license must be prominently displayed in the office of the broker.

(b) Each salesperson's license must remain in the possession of the employing broker until canceled or until the salesperson leaves such employment. Immediately upon a salesperson's withdrawal from the employment of a broker, the broker must return the salesperson's license to the *department* ~~division~~ for cancellation.

(15) The *department* ~~division~~ shall provide by rule for the issuance of a temporary 90-day license to an applicant while the Florida Department of Law Enforcement *and the Federal Bureau of Investigation conduct* ~~conducts~~ a national criminal history analysis of the applicant by means of fingerprint identification.

Section 6. Section 326.006, Florida Statutes, is amended to read:

326.006 Powers and duties of *department* ~~division~~.—

(1) Proceedings under the Yacht and Ship Brokers' Act shall be conducted pursuant to chapter 120.

(2) The *department may* ~~division has the power to~~ enforce and ensure compliance with the provisions of this chapter and rules adopted under this chapter relating to the sale and ownership of yachts and ships. In performing its duties, the *department* ~~division~~ has the following powers and duties:

(a) The *department* ~~division~~ may make necessary public or private investigations within or outside this state to determine whether any person has violated this chapter or any rule or order issued under this chapter, to aid in the enforcement of this chapter, or to aid in the adoption of rules or forms under this chapter.

(b) The *department* ~~division~~ may require or permit any person to file a statement in writing, under oath or otherwise, as the *department* ~~division~~ determines, as to the facts and circumstances concerning a matter to be investigated.

(c) For the purpose of any investigation under this chapter, the *secretary of the department* ~~division director~~ or any officer or employee designated by the *secretary* ~~division director~~ may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon the failure by a person to obey a subpoena or to answer questions propounded by the *department* ~~investigating officer~~ and upon reasonable notice to all persons affected thereby, the *department* ~~division~~ may apply to the circuit court for an order compelling compliance*, may impose a civil penalty, and may suspend or revoke the licensee's license*.

(d) Notwithstanding any remedies available to a yacht or ship purchaser, if the *department* ~~division~~ has reasonable cause to believe that a violation of any provision of this chapter or rule adopted under this chapter has occurred, the *department* ~~division~~ may institute enforcement proceedings in its own name against any broker or salesperson or any of his or her assignees or agents, or against any unlicensed person or any of his or her assignees or agents, as follows:

1. The *department* ~~division~~ may permit a person whose conduct or actions are under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The *department* ~~division~~ may issue an order requiring the broker or salesperson or any of his or her assignees or agents, or requiring any unlicensed person or any of his or her assignees or agents, to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the *department* ~~division~~ will carry out the purposes of this chapter.

3. The *department* ~~division~~ may bring an action in circuit court on behalf of a class of yacht or ship purchasers for declaratory relief, injunctive relief, or restitution.

4. The *department* ~~division~~ may impose a civil penalty against a broker or salesperson or any of his or her assignees or agents, or against an unlicensed person or any of his or her assignees or agents, for any violation of this chapter or a rule adopted under this chapter. A penalty may be imposed for each day of continuing violation, but in no event may the penalty for any offense exceed $10,000. All amounts collected must be deposited with the Treasurer to the credit of the *Professional Regulation* ~~Division of Florida Land Sales, Condominiums, and Mobile Homes~~ Trust Fund. If a broker, salesperson, or unlicensed person working for a broker, fails to pay the civil penalty, the *department* ~~division~~ shall thereupon issue an order suspending the broker's license until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. The order imposing the civil penalty or the order of suspension may not become effective until 20 days after the date of such order. Any action commenced by the *department* ~~division~~ must be brought in the county in which the *department* ~~division~~ has its executive offices or in the county where the violation occurred.

(e) The *department* ~~division~~ may suspend or revoke the license of a broker or salesperson who:

1. Makes a substantial and intentional misrepresentation, with respect to a transaction involving a yacht, upon which any person has relied.

2. Makes a false warranty, with respect to a transaction involving a yacht, of a character likely to influence, persuade, or induce any person with whom business is transacted.

3. Engages in continued misrepresentation or makes false warranties with respect to transactions involving a yacht, whether or not relied upon by another person.

4. Acts for both the buyer and seller in a transaction involving a yacht without the knowledge and written consent of both parties.

5. Commingles the money or other property of his or her principal with his or her own.

6. Commits fraud or dishonest acts in the conduct of any transaction involving a yacht.

7. Allows an unlicensed person to use his or her name to evade the provisions of the Yacht and Ship Brokers' Act.

8. Violates any law governing the transactions involving a yacht, including any provision relating to the collection or payment of sales or use taxes.

9. Engages in acts that are evidence of a lack of good moral character.

10. Is convicted of a felony.

(f) The *department* ~~division~~ may suspend or revoke the license of a broker or salesperson who has:

1. Procured a license for himself or herself or another by fraud, misrepresentation, falsification, or deceit.

2. Been found guilty of a felony or a crime of moral turpitude.

3. Had a license or registration revoked, suspended, or sanctioned in another state.

(3) All fees must be deposited in the *Professional Regulation* ~~Division of Florida Land Sales, Condominiums, and Mobile Homes~~ Trust Fund as provided by law.

Section 7. *The regulation of yacht and ship brokers and salespersons is reassigned within the Department of Business and Professional Regulation from the Division of Florida Land Sales, Condominiums, and Mobile Homes to the Division of Professions. All funds collected by the department pursuant to the regulation of yacht and ship brokers and salespersons and all funds in the account created within the Florida Land Sales, Condominiums, and Mobile Homes Trust Fund for such regulation shall be deposited in an account created within the Professional Regulation Trust Fund for the same purpose.*

Section 8. Effective upon this act becoming a law, section 399.061, Florida Statutes, is amended to read:

399.061 Inspections; correction of deficiencies.—

(1)(a) All elevators *or other conveyances* subject to this chapter must be *annually* inspected *by a certified elevator inspector through a third-party inspection service, or by a municipality or county under contract with the division* pursuant to s. 399.13*. If the elevator or other conveyance is* ~~by a third-party inspection service certified as a qualified elevator inspector or~~ maintained pursuant to a service maintenance contract continuously in force*, it shall be inspected at least once every two years by a certified elevator inspector not employed by or otherwise associated with the maintenance company; however, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection shall be required so long as the service contract remains in effect*. A statement verifying the existence, performance, and cancellation of each service maintenance contract must be filed annually with the division as prescribed by rule. ~~All elevators covered by a service maintenance contract shall be inspected by a certificate-of-competency holder at least once every 2 years; however, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection shall be required so long as the service contract remains in effect.~~

(b) The division may inspect an elevator whenever necessary to ensure its safe operation *or when a third-party inspection service is not available for routine inspection*.

(2) The division *may* ~~shall~~ employ state elevator inspectors to conduct the inspections *as* required by subsection (1) *and may charge an inspection fee for each inspection sufficient to cover the costs of that inspection, as provided by rule*. Each state elevator inspector shall hold a certificate of competency issued by the division.

(3) Whenever the division determines from the results of any inspection that, in the interest of the public safety, an elevator is in an unsafe condition, the division may seal the elevator or order the discontinuance of the use of the elevator until the division determines by inspection that such elevator has been satisfactorily repaired or replaced so that the elevator may be operated in a safe manner.

(4) When the division determines that an elevator is in violation of this chapter, the division may issue an order to the elevator owner requiring correction of the violation.

Section 9. Effective July 1, 2001, subsection (1) of section 455.213, Florida Statutes, is amended, and subsections (11) and (12) are added to that section, to read:

455.213 General licensing provisions.—

(1) Any person desiring to be licensed shall apply to the department in writing. The application for licensure shall be made on a form prepared and furnished by the department and include the applicant's social security number. *Notwithstanding any other provision of law, the department is responsible for the printed or electronic content of all initial licensure and licensure renewal documents. Such documents must require information including as appropriate demographics, education, work history, personal background, criminal history, finances, business information, complaints, inspections, investigations, discipline, bonding, signature notarization, photographs, performance periods, reciprocity, local government approvals, supporting documentation, periodic reporting requirements, fingerprint requirements, continuing education requirements, and ongoing education monitoring.* The application shall be supplemented as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department. In order to further the economic development goals of the state, and notwithstanding any law to the contrary, the department may enter into an agreement with the county tax collector for the purpose of appointing the county tax collector as the department's agent to accept applications for licenses and applications for renewals of licenses. The agreement must specify the time within which the tax collector must forward any applications and accompanying application fees to the department. In cases where a person applies or schedules directly with a national examination organization or examination vendor to take an examination required for licensure, any organization- or vendor-related fees associated with the examination may be paid directly to the organization or vendor.

(11) Any submission required to be in writing may be made by electronic means.

(12) The department may not issue or renew a license to any person who is not in compliance with all provisions of a final order of a board or the department until that person is in compliance with all terms and conditions of the final order. The department may not issue or renew a license to any person who is not in compliance with all legal obligations under this chapter or the relevant practice act, including, but not limited to, the obligation to pay all fees and assessments that are owed and to complete all continuing education requirements. This subsection applies to all divisions within the department.

Section 10. Section 455.224, Florida Statutes, is amended to read:

455.224 Authority to issue citations.—

(1) Notwithstanding s. 455.225, the board or the department shall adopt rules to permit the issuance of citations. The citation shall be issued to the subject and shall contain the subject's name and address, the subject's license number if applicable, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the subject disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes

discipline. The penalty shall be a fine or other conditions as established by rule.

(2) The board, or the department when there is no board, shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare.

(3) The department shall be entitled to recover the costs of investigation, in addition to any penalty provided according to board or department rule, as part of the penalty levied pursuant to the citation.

(4) A citation must be issued within 6 months after the filing of the complaint that is the basis for the citation.

(5) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address.

(6) Within its jurisdiction, the department has exclusive authority to, and shall adopt rules to, designate those violations for which the licensee is subject to the issuance of a citation and designate the penalties for those violations if any board fails to incorporate this section into rules by January 1, 1992. A board created on or after January 1, 1992, has 6 months in which to enact rules designating violations and penalties appropriate for citation offenses. Failure to enact such rules gives the department exclusive authority to adopt rules as required for implementing this section. A board has continuous authority to amend its rules adopted pursuant to this section.

(7) Notwithstanding s. 455.017, any division within the department may establish a citation program pursuant to the provisions of this section in the enforcement of its regulatory provisions. Any citation issued by a division pursuant to this section must clearly state that the subject may choose, in lieu of accepting the citation, to follow the existing procedures established by law. If the subject does not dispute the matter in the citation with the division within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. The penalty shall be a fine or other conditions as established by rule of the appropriate division.

Section 11. Subsections (10) and (11) of section 468.401, Florida Statutes, are amended to read:

468.401 Regulation of talent agencies; definitions.—As used in this part or any rule adopted pursuant hereto:

(10) *"Registration"* ~~"License"~~ means a *registration* ~~license~~ issued by the department ~~of Business and Professional Regulation~~ to carry on the business of a talent agency under this part.

(11) *"Registrant"* ~~"Licensee"~~ means a talent agency *that* ~~which~~ holds a valid unrevoked and unforfeited *registration* ~~license~~ issued under this part.

Section 12. Section 468.402, Florida Statutes, is amended to read:

468.402 *Operation of a talent agency* ~~Duties of the department; authority to issue and revoke license~~; adoption of rules.—

(1) *It is unlawful to have* ~~The department may take any one or more of the actions specified in subsection (5) against any person who has~~:

(a) Obtained or attempted to obtain *a registration* ~~any license~~ by means of fraud, misrepresentation, or concealment.

(b) Violated any provision of this part, chapter 455, any lawful disciplinary order of the department, or any rule of the department.

(c) Been found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime involving moral turpitude or dishonest dealings under the laws of this state or any other state or government.

(d) Made, printed, published, distributed, or caused, authorized, or knowingly permitted the making, printing, publication, or distribution of any false statement, description, or promise of such a character as to reasonably induce any person to act to his or her damage or injury, if such statement, description, or promises were purported to be performed by the talent agency and if the owner or operator then knew, or by the exercise of reasonable care and inquiry, could have known, of the falsity of the statement, description, or promise.

(e) Knowingly committed or been a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relying upon the work, representation, or conduct of the talent agency acts or has acted to his or her injury or damage.

(f) Failed or refused upon demand to disclose any information, as required by this part, within his or her knowledge, or failed or refused to produce any document, book, or record in his or her possession for inspection *as required by* ~~to the department or any authorized agent thereof acting within its jurisdiction or by authority of~~ law.

(g) Established the talent agency within any place where intoxicating liquors are sold, any place where gambling is permitted, or any house of prostitution.

(h) Charged, collected, or received compensation for any service performed by the talent agency greater than specified in its schedule of maximum fees, charges, and commissions ~~previously filed with the department~~.

(i) Had a license *or registration* to operate a talent agency revoked, suspended, or otherwise acted against, including, but not limited to, having been denied a license *or registration* for good cause by the licensing authority of another state, territory, or country.

(j) Willfully made or filed a report or record that the *registrant* ~~licensee~~ knew to be false, failed to file a report or record required by state or federal law, impeded or obstructed such filing, or induced another person to impede or obstruct such filing. Such reports or records shall include only those that are signed in the *registrant's* ~~licensee's~~ capacity as a *registered* ~~licensed~~ talent agency.

(k) Advertised goods or services in a manner that was fraudulent, false, deceptive, or misleading in form or content.

(l) Advertised, operated, or attempted to operate under a name other than the name appearing on the *registration* ~~license~~.

(m) Been found guilty of fraud or deceit in the operation of a talent agency.

(n) Operated with a revoked, suspended, inactive, or delinquent *registration* ~~license~~.

(o) Permitted, aided, assisted, procured, or advised any ~~unlicensed~~ person to operate a talent agency contrary to this part or *other law* ~~to a rule of the department~~.

(p) Failed to perform any statutory or legal obligation placed on a ~~licensed~~ talent agency.

(q) Practiced or offered to practice beyond the scope permitted by law or has accepted and performed professional responsibilities that the *registrant* ~~licensee~~ knows or has reason to know that he or she is not competent to perform.

(r) Conspired with ~~another licensee or with~~ any other person to commit an act, or has committed an act, that would tend to coerce, intimidate, or preclude another *registrant* ~~licensee~~ from advertising his or her services.

(s) Solicited business, either personally or through an agent or through any other person, through the use of fraud or deception or by other means; through the use of misleading statements; or through the exercise of intimidation or undue influence.

(t) Exercised undue influence on the artist in such a manner as to exploit the artist for financial gain of the *registrant* ~~licensee~~ or a third party, which includes, but is not limited to, the promoting or selling of services to the artist.

~~(2) The department may revoke any license that is issued as a result of the mistake or inadvertence of the department.~~

(2)~~(3)~~ The department *may* ~~has authority to~~ adopt rules pursuant to ss. 120.536(1) and 120.54 *necessary* to *administer* ~~implement the provisions of~~ this part.

(3)~~(4)~~ A revoked or suspended *registration* ~~license~~ must be returned to the department within 7 days after the time for appeal has elapsed.

(4)~~(5)~~ Upon a finding of a violation of any one or more of the grounds enumerated in subsection (1) or any other section of this part, the department may ~~take the following actions~~:

(a) Deny an application for *registration* ~~licensure~~ as a talent agency.

(b) ~~Permanently~~ Revoke or suspend the *registration* ~~license~~ of a talent agency.

~~(c) Impose an administrative fine, not to exceed $5,000, for each count or separate offense.~~

~~(d) Require restitution.~~

~~(e) Issue a public reprimand.~~

~~(f) Place the licensee on probation, subject to such conditions as the department may specify.~~

~~(6) A person shall be subject to the disciplinary actions specified in subsection (5) for violations of subsection (1) by that person's agents or employees in the course of their employment with that person.~~

(5)~~(7)~~ The department may deny a *registration* ~~license~~ if any owner or operator listed on the application has been associated with a talent agency whose *registration* ~~license~~ has been revoked or otherwise disciplined.

Section 13. Section 468.403, Florida Statutes, is amended to read:

468.403 *Registration* ~~License~~ requirements.—

(1) A person may not own, operate, solicit business, or otherwise engage in or carry on the occupation of a talent agency in this state unless such person first *registers with* ~~procures a license for the talent agency from~~ the department. However, a *registration* ~~license~~ is not required for a person who acts as an agent for herself or himself, a family member, or exclusively for one artist.

(2) Each application for a *registration* ~~license~~ must be accompanied by an application fee set by the department not to exceed $300~~, plus the actual cost for fingerprint analysis for each owner application, to cover the costs of investigating the applicant~~. Each application for a change of operator must be accompanied by an application fee of $150. These fees are not refundable.

~~(3)(a) Each owner of a talent agency if other than a corporation and each operator of a talent agency shall submit to the department with the application for licensure of the agency a full set of fingerprints and a photograph of herself or himself taken within the preceding 2 years. The department shall conduct an examination of fingerprint records and police records.~~

~~(b) Each owner of a talent agency that is a corporation shall submit to the department, with the application for licensure of the agency, a full set of fingerprints of the principal officer signing the application form and the bond form, and a full set of fingerprints of each operator, and a photograph of each taken within the preceding 2 years. The department shall conduct an examination of fingerprint records and police records.~~

(3)~~(4)~~ Each application must include:

(a) The name and address of the owner of the talent agency.

~~(b) Proof of at least 1 year of direct experience or similar experience of the operator of such agency in the talent agency business or as a subagent, casting director, producer, director, advertising agency, talent coordinator, or musical booking agent.~~

(b)~~(c)~~ The street and number of the building or place where the talent agency is to be located.

~~(5) The department shall investigate the owner of an applicant talent agency only to determine her or his ability to comply with this part and shall investigate the operator of an applicant talent agency to determine her or his employment experience and qualifications.~~

(4)~~(6)~~ If the applicant is other than a corporation, the application shall also include the names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the operation of the talent agency in question, together with the amount of their respective interest.

(5)~~(7)~~ If the applicant is a corporation, the application shall include the corporate name and the names, residential addresses, and telephone numbers of all persons actively participating in the business of the corporation and shall include the names of all persons exercising managing responsibility in the applicant's or *registrant's* ~~licensee's~~ office.

~~(8) The application must be accompanied by affidavits of at least five reputable persons, other than artists, who have known or have been associated with the applicant for at least 3 years, stating that the applicant is a person of good moral character or, in the case of a corporation, has a reputation for fair dealing.~~

(6)~~(9)~~ If any information in the application supplied to the department by the applicant or *registrant* ~~licensee~~ changes in any manner whatsoever, the applicant or *registrant* ~~licensee~~ shall submit such changes to the department within 30 days after the date of such change or after the date such change is known or should have been known to the applicant or *registrant* ~~licensee~~.

Section 14. Section 468.404, Florida Statutes, is amended to read:

468.404 *Registration* ~~License~~; fees; renewals.—

(1) The department by rule shall establish biennial fees for initial *registration* ~~licensing~~, renewal of *registration* ~~license~~, and reinstatement of *registration* ~~license~~, none of which fees shall exceed $400. The department may by rule establish a delinquency fee of no more than $50. The fees shall be adequate to proportionately fund the expenses of the department which are allocated to the *registering* ~~regulation~~ of talent agencies and shall be based on the department's estimate of the revenue required to administer this part.

(2) If one or more individuals on the basis of whose qualifications a talent agency *registration* ~~license~~ has been obtained cease to be connected with the agency for any reason, the agency business may be carried on for a temporary period, not to exceed 90 days, under such terms and conditions as the department provides by rule for the orderly closing of the business or the replacement and qualifying of a new owner or operator. The *registrant's* ~~licensee's~~ good standing under this part shall be contingent upon the department's approval of any such new owner or operator.

(3) No *registration* ~~license~~ shall be valid to protect any business transacted under any name other than that designated *on* ~~in~~ the *registration* ~~license~~, unless consent is first obtained from the department~~, unless written consent of the surety or sureties on the original bond required by s. 468.408 is filed with the department,~~ and unless the *registration* ~~license~~ is returned to the department for the recording thereon of such changes. A charge of $25 shall be made by the department for the recording of authorization for each change of name or change of location.

(4) No *registration* ~~license~~ issued under this part shall be assignable.

Section 15. Section 468.406, Florida Statutes, is amended to read:

468.406 Fees to be charged by talent agencies; rates; display.—

(1) Each *talent agency* ~~applicant for a license~~ shall *maintain and provide to its artists or potential clients* ~~file with the application~~ an

itemized schedule of maximum fees, charges, and commissions which it intends to charge and collect for its services. This schedule may thereafter be raised only by *notifying its artists* ~~filing with the department an amended or supplemental schedule~~ at least 30 days before the change is to become effective. The schedule shall be posted in a conspicuous place in each place of business of the agency and shall be printed in not less than a 30-point boldfaced type, except that an agency that uses written contracts containing maximum fee schedules need not post such schedules.

(2) All money collected by a talent agency from an employer for the benefit of an artist shall be paid to the artist, less the talent agency's fee, within 5 business days after the receipt of such money by the talent agency. No talent agency is required to pay money to an artist until the talent agency receives payment from the employer or buyer.

Section 16. Section 468.407, Florida Statutes, is amended to read:

468.407 *Registration* ~~License~~; content; posting.—

(1) The talent agency *registration* ~~license~~ shall be valid for the biennial period in which issued and shall be in such form as may be determined by the department, but shall at least specify the name under which the applicant is to operate, the address of the place of business, the expiration date of the *registration* ~~license~~, the full names and titles of the owner and the operator, and the number of the *registration* ~~license~~.

(2) The talent agency *registration* ~~license~~ shall at all times be displayed conspicuously in the place of business in such manner as to be open to the view of the public and subject to the inspection of all duly authorized officers of the state and county.

(3) If a *registrant* ~~licensee~~ desires to cancel his or her *registration* ~~license~~, he or she must notify the department and forthwith return to the department the *registration* ~~license~~ so canceled. No *registration* ~~license~~ fee may be refunded upon cancellation of the *registration* ~~license~~.

Section 17. Subsection (3) of section 468.410, Florida Statutes, is amended to read:

468.410 Prohibition against registration fees; referral.—

(3) A talent agency shall give each applicant a copy of a contract which lists the services to be provided and the fees to be charged. The contract shall state that the talent agency is *registered with* ~~regulated by~~ the department and shall list the address and telephone number of the department.

Section 18. Section 468.412, Florida Statutes, is amended to read:

468.412 Talent agency *requirements* ~~regulations~~.—

(1) A talent agency shall maintain a record sheet for each booking. This shall be the only required record of placement and shall be kept for a period of 1 year after the date of the last entry in the buyer's file.

(2) Each talent agency shall keep records in which shall be entered:

(a) The name and address of each artist employing such talent agency;

(b) The amount of fees received from each such artist; *and*

(c) The employment in which each such artist is engaged at the time of employing such talent agency and the amount of compensation of the artist in such employment, if any, and the employments subsequently secured by such artist during the term of the contract between the artist and the talent agency and the amount of compensation received by the artist pursuant thereto.~~; and~~

~~(d) Other information which the department may require from time to time.~~

~~(3) All books, records, and other papers kept pursuant to this act by any talent agency shall be open at all reasonable hours to the inspection of the department and its agents. Each talent agency shall furnish to the department, upon request, a true copy of such books, records, and papers, or any portion thereof, and shall make such reports as the department may prescribe from time to time.~~

(3)~~(4)~~ Each talent agency shall post in a conspicuous place in the office of such talent agency a printed copy of this part ~~and of the rules adopted under this part. Such copies shall also contain the name and address of the officer charged with enforcing this part~~. The department shall furnish to talent agencies printed copies of any statute ~~or rule~~ required to be posted under this subsection.

(4)~~(5)~~ No talent agency may knowingly issue a contract for employment containing any term or condition which, if complied with, would be in violation of law, or attempt to fill an order for help to be employed in violation of law.

(5)~~(6)~~ No talent agency may publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisement. All advertisements of a talent agency by means of card, circulars, or signs, and in newspapers and other publications, and all letterheads, receipts, and blanks shall be printed and contain the *registered* ~~licensed~~ name, department *registration* ~~license~~ number, and address of the talent agency and the words "talent agency." No talent agency may give any false information or make any false promises or representations concerning an engagement or employment to any applicant who applies for an engagement or employment.

(6)~~(7)~~ No talent agency may send or cause to be sent any person as an employee to any house of ill fame, to any house or place of amusement for immoral purposes, to any place resorted to for the purposes of prostitution, to any place for the modeling or photographing of a minor in the nude in the absence of written permission from the minor's parents or legal guardians, the character of which places the talent agency could have ascertained upon reasonable inquiry.

(7)~~(8)~~ No talent agency may divide fees with anyone, including, but not limited to, an agent or other employee of an employer, a buyer, a casting director, a producer, a director, or any venue that uses entertainment.

(8)~~(9)~~ If a talent agency collects from an artist a fee or expenses for obtaining employment for the artist, and the artist fails to procure such employment, or the artist fails to be paid for such employment if procured, such talent agency shall, upon demand therefor, repay to the artist the fee and expenses so collected. Unless repayment thereof is made within 48 hours after demand therefor, the talent agency shall pay to the artist an additional sum equal to the amount of the fee.

(9)~~(10)~~ Each talent agency must maintain a permanent office and must maintain regular operating hours at that office.

Section 19. Section 468.413, Florida Statutes, is amended to read:

468.413 *Unlawful acts* ~~Legal requirements~~; penalties.—

(1) Each of the following acts constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

(a) Owning or operating, or soliciting business as, a talent agency in this state without first *registering with* ~~procuring a license from~~ the department.

(b) Obtaining or attempting to obtain a *registration* ~~license~~ by means of fraud, misrepresentation, or concealment.

(2) Each of the following acts constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083:

(a) Relocating a business as a talent agency, or operating under any name other than that designated on the *registration* ~~license~~, ~~unless written notification is given to the department and to the surety or sureties on the original bond, and~~ unless the *registration* ~~license~~ is returned to the department for the recording thereon of such changes.

(b) Assigning or attempting to assign a *registration* ~~license~~ issued under this part.

(c) Failing to show on a *registration* ~~license~~ application whether or not the agency or any owner of the agency is financially interested in any

other business of like nature and, if so, failing to specify such interest or interests.

(d) Failing to maintain the records required by s. 468.409 or knowingly making false entries in such records.

(e) Requiring as a condition to registering or obtaining employment or placement for any applicant that the applicant subscribe to, purchase, or attend any publication, postcard service, advertisement, resume service, photography service, school, acting school, workshop, or acting workshop.

(f) Failing to give each applicant a copy of a contract which lists the services to be provided and the fees to be charged, which states that the talent agency is *registered with* ~~regulated by~~ the department~~, and which lists the address and telephone number of the department~~.

(g) Failing to maintain a record sheet as required by s. 468.412(1).

(h) Knowingly sending or causing to be sent any artist to a prospective employer or place of business, the character or operation of which employer or place of business the talent agency knows to be in violation of the laws of the United States or of this state.

(3) The court may, in addition to other punishment provided for in *subsection (1) or* subsection (2), suspend or revoke the *registration* ~~license~~ of any *person* ~~licensee~~ under this part who has been found guilty of any *violation of subsection (1) or* ~~misdemeanor listed in~~ subsection (2).

(4) *If a* ~~In the event the department or any~~ state attorney *finds* ~~shall have~~ probable cause to believe that a talent agency or other person has violated any provision of subsection (1) *or subsection (2)*, an action may be brought by the department or any state attorney to enjoin such talent agency or any person from continuing such violation, or engaging therein or doing any acts in furtherance thereof, and for such other relief as to the court seems appropriate. In addition to this remedy, the department may *permanently prohibit a person from operating or working for a talent agency* ~~assess a penalty against any talent agency or any person in an amount not to exceed $1,000~~.

(5) Any person injured by a prohibited act or practice in violation of this part may bring a civil action in circuit court for temporary or permanent injunctive relief and may seek appropriate civil relief, including, but not limited to, a civil penalty not to exceed $5,000 for each violation, restitution and treble damages for injured parties, and court costs and reasonable attorney's fees.

Section 20. Section 468.414, Florida Statutes, is amended to read:

468.414 Collection and deposit of moneys; appropriation.—Proceeds from the ~~fines,~~ fees~~, and penalties~~ imposed pursuant to this part shall be deposited in the Professional Regulation Trust Fund, created by s. 215.37.

Section 21. Section 468.415, Florida Statutes, is amended to read:

468.415 Sexual misconduct in the operation of a talent agency.—The talent agent-artist relationship is founded on mutual trust. Sexual misconduct in the operation of a talent agency means violation of the talent agent-artist relationship through which the talent agent uses the relationship to induce or attempt to induce the artist to engage or attempt to engage in sexual activity. Sexual misconduct is prohibited in the operation of a talent agency. If any agent, owner, or operator of a *registered* ~~licensed~~ talent agency is found to have committed sexual misconduct in the operation of a talent agency, the agency *registration* ~~license~~ shall be permanently revoked. Such agent, owner, or operator shall be permanently disqualified from present and future *registration* ~~licensure~~ as owner or operator of a Florida talent agency.

Section 22. *Sections 468.405 and 468.408, Florida Statutes, are repealed.*

Section 23. Subsection (7) of section 468.609, Florida Statutes, is amended to read:

468.609 Administration of this part; standards for certification; additional categories of certification.—

(7)(a) The board may provide for the issuance of provisional certificates valid for such period, not less than 3 years nor more than 5 years, as specified by board rule, to any newly employed or promoted building code inspector or plans examiner who meets the eligibility requirements described in subsection (2) and any newly employed or promoted building code administrator who meets the eligibility requirements described in subsection (3).

(b) No building code administrator, plans examiner, or building code inspector may have a provisional certificate extended beyond the specified period by renewal or otherwise.

(c) The board may provide for appropriate levels of provisional certificates and may issue these certificates with such special conditions or requirements relating to the place of employment of the person holding the certificate, the supervision of such person on a consulting or advisory basis, or other matters as the board may deem necessary to protect the public safety and health.

(d)*1.* A newly employed or hired person may perform the duties of a plans examiner or building code inspector for 90 days if a provisional certificate application has been submitted, provided such person is under the direct supervision of a certified building code administrator who holds a standard certification and who has found such person qualified for a provisional certificate. ~~However,~~

2. Direct supervision and the determination of qualifications under this paragraph may be provided by a building code administrator who holds a limited or provisional certificate in any county with a population of less than 75,000 and in any municipality located within such a county.

3. Direct supervision under this paragraph may be provided in any county with a population of less than 75,000 and in any municipality within such county by telecommunication devices if the supervision is appropriate for the facts surrounding the performance of the duties being supervised.

Section 24. Subsection (4) of section 468.627, Florida Statutes, is amended to read:

468.627 Application; examination; renewal; fees.—

(4) Employees of local government agencies having responsibility for building code inspection, building construction regulation, and enforcement of building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes shall pay no application fees or examination fees. *However, the fee charged by the examination contract vendor to the department for scheduling an examination of an employee of a local government shall be recovered from any employee who does not report for the scheduled examination. The department shall have the final approval for excusing applicants from a scheduled examination and may waive recovery of the fee in case of hardship.*

Section 25. Subsection (1) of section 471.025, Florida Statutes, is amended to read:

471.025 Seals.—

(1) The board shall prescribe, by rule, *the forms* ~~a form~~ of *seals* ~~seal~~ to be used by registrants holding valid certificates of registration. Each registrant shall obtain *at least one* ~~an impression-type metal~~ seal in the form *approved by board rule* ~~aforesaid~~ and may, in addition, register his or her seal electronically in accordance with ss. 282.70-282.75. All final drawings, specifications, plans, reports, or documents prepared or issued by the registrant and being filed for public record and all final bid documents provided to the owner or the owner's representative shall be signed by the registrant, dated, and stamped with said seal. Such signature, date, and seal shall be evidence of the authenticity of that to which they are affixed. Drawings, specifications, plans, reports, final bid documents, or documents prepared or issued by a registrant may be transmitted electronically and may be signed by the registrant, dated, and stamped electronically with said seal in accordance with ss. 282.70-282.75.

Section 26. Section 472.001, Florida Statutes, is amended to read:

472.001 Purpose.—The Legislature deems it necessary to regulate surveyors and mappers as provided in *this chapter* ~~ss. 472.001-472.041~~.

Section 27. Section 472.003, Florida Statutes, is amended to read:

472.003 *Exemptions* ~~Persons not affected by ss. 472.001-472.041~~.—*This chapter does* ~~Sections 472.001-472.041 do~~ not apply to:

(1) Any surveyor and mapper working as a salaried employee of the United States Government when engaged in work solely for the United States Government.

(2) A registered professional engineer who takes or contracts for professional surveying and mapping services incidental to her or his practice of engineering and who delegates such surveying and mapping services to a registered professional surveyor and mapper qualified within her or his firm or contracts for such professional surveying and mapping services to be performed by others who are registered professional surveyors and mappers under *this chapter* ~~the provisions of ss. 472.001-472.041~~.

(3) The following persons when performing construction layout from boundary, horizontal, and vertical controls that have been established by a registered professional surveyor and mapper:

(a) Contractors performing work on bridges, roads, streets, highways, or railroads, or utilities and services incidental thereto, or employees who are subordinates of such contractors provided that the employee does not hold herself or himself out for hire or engage in such contracting except as an employee;

(b) Certified or registered contractors licensed pursuant to part I of chapter 489 or employees who are subordinates of such contractors provided that the employee does not hold herself or himself out for hire or engage in contracting except as an employee; and

(c) Registered professional engineers licensed pursuant to chapter 471 and employees of a firm, corporation, or partnership who are the subordinates of the registered professional engineer in responsible charge.

(4) Persons employed by county property appraisers, as defined at s. 192.001(3), and persons employed by the Department of Revenue, to prepare maps for property appraisal purposes only, but only to the extent that they perform mapping services which do not include any surveying activities as described in s. 472.005(4)~~(a) and (b)~~.

(5)(a) Persons who are employees of any state, county, municipal, or other governmental unit of this state and who are the subordinates of a person in responsible charge registered under this chapter, to the extent that the supervision meets standards adopted by rule of the board, if any.

(b) Persons who are employees of any employee leasing company licensed pursuant to part XI of chapter 468 and who work as subordinates of a person in responsible charge registered under this chapter.

(c) Persons who are employees of an individual registered or legal entity certified under this chapter and who are the subordinates of a person in responsible charge registered under this chapter, to the extent that the supervision meets standards adopted by rule of the board, if any.

Section 28. Section 472.005, Florida Statutes, is amended to read:

472.005 Definitions.—As used in *this chapter* ~~ss. 472.001-472.041~~:

(1) "Board" means the Board of Professional Surveyors and Mappers.

(2) "Department" means the Department of Business and Professional Regulation.

(3) "Surveyor and mapper" includes the term "professional surveyor and mapper" and means a person who is registered to engage in the practice of surveying and mapping under *this chapter* ~~ss. 472.001-472.041~~. For the purposes of this *subsection* ~~statute~~, a surveyor and mapper means a person who determines and displays the facts of size, shape, topography, tidal datum planes, legal or geodetic location or relation, and orientation of improved or unimproved real property through direct measurement or from certifiable measurement through accepted photogrammetric procedures.

(4)(a) "Practice of surveying and mapping" means, among other things, any professional service or work, the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences, and the relevant requirements of law for adequate evidence of the act of measuring, locating, establishing, or reestablishing lines, angles, elevations, natural and manmade features in the air, on the surface and immediate subsurface of the earth, within underground workings, and on the beds or surface of bodies of water, for the purpose of determining, establishing, describing, displaying, or interpreting the facts of size, shape, topography, tidal datum planes, legal or geodetic location or relocation, and orientation of improved or unimproved real property and appurtenances thereto, including acreage and condominiums.

(b) The practice of surveying and mapping also includes, but is not limited to, photogrammetric control; the monumentation and remonumentation of property boundaries and subdivisions; the measurement of and preparation of plans showing existing improvements after construction; the layout of proposed improvements; the preparation of descriptions for use in legal instruments of conveyance of real property and property rights; the preparation of subdivision planning maps and record plats, as provided for in chapter 177; the determination of, but not the design of, grades and elevations of roads and land in connection with subdivisions or divisions of land; and the creation and perpetuation of alignments related to maps, record plats, field note records, reports, property descriptions, and plans and drawings that represent them.

(5) ~~The term~~ "Surveyor and mapper intern" includes ~~the term~~ "surveyor-mapper-in-training" and means a person who complies with the requirements *of this chapter* ~~provided by ss. 472.001-472.041~~ and who has passed an examination as provided by rules adopted by the board.

(6) ~~The term~~ "Responsible charge" means direct control and personal supervision of surveying and mapping work, but does not include experience as a chainperson, rodperson, instrumentperson, ordinary draftsperson, digitizer, scriber, photo lab technician, ordinary stereo plotter operator, aerial photo pilot, photo interpreter, and other positions of routine work.

(7) ~~The term~~ "License" means the registration of surveyors and mappers or the certification of businesses to practice surveying and mapping in this state.

(8) "Photogrammetric mapper" means any person who engages in the practice of surveying and mapping using aerial or terrestrial photography or other sources of images.

(9) "Employee" means a person who receives compensation from and is under the supervision and control of an employer who regularly deducts the F.I.C.A. and withholding tax and provides workers' compensation, all as prescribed by law.

(10) "Subordinate" means an employee who performs work under the direction, supervision, and responsible charge of a person who is registered under this chapter.

(11) "Monument" means an artificial or natural object that is permanent or semipermanent and used or presumed to occupy any real property corner, any point on a boundary line, or any reference point or other point to be used for horizontal or vertical control.

(12) "Legal entity" means a corporation, partnership, association, or person practicing under a fictitious name who is certified under s. 472.021.

Section 29. Subsection (1) of section 472.011, Florida Statutes, is amended to read:

472.011 Fees.—

(1) The board, by rule, may establish fees to be paid for applications, examination, reexamination, licensing and renewal, inactive status application and reactivation of inactive licenses, recordmaking and recordkeeping, and applications for providers of continuing education. The board may also establish by rule a delinquency fee. The board shall establish fees that are adequate to ensure the continued operation of the board. Fees shall be based on department estimates of the revenue required to implement *this chapter* ~~ss. 472.001-472.041~~ and the provisions of law with respect to the regulation of surveyors and mappers.

Section 30. Subsection (4) of section 472.015, Florida Statutes, is amended to read:

472.015 Licensure.—

(4) The department shall not issue a license by endorsement to any applicant who is under investigation in another state for any act that would constitute a violation of *this chapter* ~~ss. 472.001-472.041~~ or chapter 455 until such time as the investigation is complete and disciplinary proceedings have been terminated.

Section 31. Subsection (1) of section 472.021, Florida Statutes, is amended to read:

472.021 Certification of partnerships and corporations.—

(1) The practice of or the offer to practice surveying and mapping by registrants through a corporation or partnership offering surveying and mapping services to the public, or by a corporation or partnership offering said services to the public through registrants under *this chapter* ~~ss. 472.001-472.041~~ as agents, employees, officers, or partners, is permitted subject to the provisions of *this chapter* ~~ss. 472.001-472.041~~, provided that one or more of the principal officers of the corporation or one or more partners of the partnership and all personnel of the corporation or partnership who act in its behalf as surveyors and mappers in this state are registered as provided by *this chapter* ~~ss. 472.001-472.041,~~ and~~,~~ further~~,~~ provided that the corporation or partnership has been issued a certificate of authorization by the board as provided in this section. All final drawings, specifications, plans, reports, or other papers or documents involving the practice of surveying and mapping which are prepared or approved for the use of the corporation or partnership or for delivery to any person or for public record within the state must be dated and must bear the signature and seal of the registrant who prepared or approved them. Nothing in this section shall be construed to allow a corporation to hold a certificate of registration to practice surveying and mapping. No corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees, or officers by reason of its compliance with this section, nor shall any individual practicing surveying and mapping be relieved of responsibility for professional services performed by reason of his or her employment or relationship with a corporation or partnership.

Section 32. Section 472.027, Florida Statutes, is amended to read:

472.027 Minimum technical standards for surveying and mapping.—The board shall adopt rules relating to the practice of surveying and mapping which establish minimum technical standards to ensure the achievement of no less than minimum degrees of accuracy, completeness, and quality in order to assure adequate and defensible real property boundary locations and other pertinent information provided by surveyors and mappers under the authority of *this chapter* ~~ss. 472.001-472.041~~.

Section 33. Section 472.029, Florida Statutes, is amended to read:

472.029 *Authorization* ~~Surveyors and mappers authorized~~ to enter lands of third parties*;* ~~under certain~~ conditions.—Surveyors and mappers *and their subordinates* may go on, over, and upon the lands of others when necessary to make surveys and maps *or to search for, uncover, locate, or set monuments*, and, in so doing, may carry with them their agents and employees necessary for that purpose. Entry under the right hereby granted does not constitute trespass, and surveyors and mappers and their *subordinates and* duly authorized agents or employees so entering are not liable to arrest or to a civil action by reason of such entry *as long as the entering is in compliance with all federal, state, and local regulations pertaining to premises security, agricultural protections, and other health and safety requirements.*~~;~~ However, this section does not give authority to registrants, *subordinates,* agents, or employees to destroy, injure, damage, or *otherwise* move *any physical improvements* ~~anything~~ on lands of another without the written permission of the landowner. *No landowner shall be liable to any third party for any civil or criminal act, or any damages, which result in whole or in part through the negligent or intentional conduct of any person regulated by this section. If written notice is delivered to a landowner or the landowner's registered agent three business days prior to entry on a parcel containing more than 160 acres classified as agricultural land, the duty of care owed to those regulated by this section shall be that due to a licensee under this chapter; however, if no such notice is given, the landowner's duty of care shall be that due to an unforeseen trespasser.*

Section 34. Subsection (5) of section 810.12, Florida Statutes, is amended to read:

810.12 Unauthorized entry on land; prima facie evidence of trespass.—

(5) However, this section shall not apply to any official or employee of the state or a county, municipality, or other governmental agency now authorized by law to enter upon lands or to registered engineers*,* ~~and~~ surveyors and mappers*, and other persons* authorized to enter lands pursuant to ss. 471.027 and 472.029. The provisions of this section shall not apply to the trimming or cutting of trees or timber by municipal or private public utilities, or their employees, contractors, or subcontractors, when such trimming is required for the establishment or maintenance of the service furnished by any such utility.

Section 35. Subsection (1) of section 472.031, Florida Statutes, is amended to read:

472.031 Prohibitions; penalties.—

(1) No person shall:

(a) Practice surveying and mapping unless such person is registered *under this chapter* ~~pursuant to ss. 472.001-472.041~~;

(b) Use the name or title "registered surveyor and mapper" when such person has not registered *under this chapter* ~~pursuant to ss. 472.001-472.041~~;

(c) Present as his or her own the registration of another;

(d) Knowingly give false or forged evidence to the board or a member thereof; or

(e) Use or attempt to use a registration that has been suspended or revoked.

Section 36. Section 472.037, Florida Statutes, is amended to read:

472.037 Application of *chapter* ~~ss. 472.001-472.041~~.—

(1) Nothing contained in *this chapter* ~~ss. 472.001-472.041~~ shall be construed to repeal, amend, limit, or otherwise affect any local building code or zoning law or ordinance, now or hereafter enacted, which is more restrictive with respect to the services of registered surveyors and mappers than the provisions of *this chapter* ~~ss. 472.001-472.041~~.

(2) In counties or municipalities that issue building permits, such permits shall not be issued in any case where it is apparent from the application for such building permit that the provisions of *this chapter* ~~ss. 472.001-472.041~~ have been violated. However, this shall not authorize the withholding of building permits in any cases within the exempt classes set forth in *this chapter* ~~ss. 472.001-472.041~~.

Section 37. Section 476.014, Florida Statutes, is amended to read:

476.014 Short title.—This *chapter* ~~act~~ may be cited as the "Barbers' Act."

Section 38. Section 476.034, Florida Statutes, is amended to read:

476.034 Definitions.—As used in this *chapter* ~~act~~:

(1) "Barber" means a person who is licensed to engage in the practice of barbering in this state under the authority of this chapter.

(2) "Barbering" means any of the following practices when done for remuneration and for the public, but not when done for the treatment of disease or physical or mental ailments: shaving, cutting, trimming, coloring, shampooing, arranging, dressing, curling, or waving the hair or beard or applying oils, creams, lotions, or other preparations to the face, scalp, or neck, either by hand or by mechanical appliances.

(3) "Barbershop" means any place of business wherein the practice of barbering is carried on.

(4) "Board" means the ~~Barbers'~~ Board *of Barbering and Cosmetology*.

(5) "Department" means the Department of Business and Professional Regulation.

Section 39. Section 476.054, Florida Statutes, is amended to read:

476.054 ~~Barbers'~~ Board *of Barbering and Cosmetology*.—

(1) There is created within the department the ~~Barbers'~~ Board *of Barbering and Cosmetology*, consisting of seven members who shall be appointed by the Governor, subject to confirmation by the Senate.

(2) *Two* ~~Five~~ members of the board *must* ~~shall~~ be *licensed* barbers who have practiced ~~the occupation of~~ barbering in this state for at least 5 years. *Three members must be licensed cosmetologists who have practiced cosmetology in this state for at least 5 years, and one member must be a registered cosmetology specialist who has practiced his or her specialty in this state for a least 5 years.* The remaining *member must* ~~two members of the board shall~~ be *a resident* ~~citizens~~ of the state who *is* ~~are~~ not presently *a* licensed *barber or cosmetologist* ~~barbers~~. No person *may* ~~shall~~ be appointed to the board who is ~~in any way~~ connected with the manufacture, rental, or wholesale distribution of barber *or cosmetology* equipment and supplies.

(3) As the terms of the members expire, the Governor shall appoint successors for terms of 4 years; and such members shall serve until their successors are appointed and qualified. The Governor may remove any member for cause.

(4) No person *may* ~~shall~~ be appointed to serve more than two consecutive terms. Any vacancy shall be filled by appointment by the Governor for the unexpired portion of the term.

(5) Each board member shall receive *$50 per day, up to a maximum of $2,000 per year, for time spent on board business, plus* per diem and mileage allowances as provided in s. 112.061 from the place of her or his residence to the place of meeting and the return therefrom.

(6) Before beginning duties as a board member, each appointee must take the constitutional oath of office and file it with the Department of State, which shall issue to such member a certificate of appointment.

(7) The board shall, each January, elect from among its members a chair and a vice chair.

(8) The board shall hold such meetings during the year as necessary, one of which shall be the annual meeting. The chair may call other meetings. A quorum shall consist of not fewer than four members.

(9)~~(6)~~ Each board member shall be held accountable to the Governor for the proper performance of all duties and obligations of such board member's office. The Governor shall cause to be investigated any complaints or unfavorable reports received concerning the actions of the board or its individual members and shall take appropriate action thereon, which may include removal of any board member for malfeasance, misfeasance, neglect of duty, commission of a felony, drunkenness, incompetency, or permanent inability to perform her or his official duties.

Section 40. Section 476.064, Florida Statutes, is amended to read:

476.064 Organization; headquarters; personnel; meetings.—

(1) ~~The board shall annually elect a chair and a vice chair from its number.~~ The board shall maintain its headquarters in Tallahassee.

(2) The department shall appoint or employ such personnel as ~~may be~~ necessary to assist the board in exercising the powers and performing the duties and obligations set forth in this *chapter* ~~act~~. Such personnel need not be licensed barbers *or cosmetologists* and shall not be members of the board. Such personnel shall be authorized to do and perform such duties and work as may be assigned by the board.

~~(3) The board shall hold an annual meeting and such other meetings during the year as it may determine to be necessary. The chair of the board may call other meetings at her or his discretion. A quorum of the board shall consist of not less than four members.~~

(3)~~(4)~~ The board has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 *necessary* to *administer* ~~implement the provisions of~~ this chapter.

Section 41. Subsections (1) and (2) of section 476.074, Florida Statutes, are amended to read:

476.074 Legal, investigative, and inspection services.—

(1) The department shall provide all legal services needed to carry out the provisions of this *chapter* ~~act~~.

(2) The department shall provide all investigative services required by the board or the department in carrying out the provisions of this *chapter* ~~act~~.

Section 42. Subsection (2) of section 476.154, Florida Statutes, is amended to read:

476.154 Biennial renewal of licenses.—

(2) Any license or certificate of registration issued pursuant to this *chapter* ~~act~~ for a period less than the established biennial issuance period may be issued for that lesser period of time, and the department shall adjust the required fee accordingly. The board shall adopt rules providing for such partial period fee adjustments.

Section 43. Paragraphs (a) and (b) of subsection (1) of section 476.194, Florida Statutes, are amended to read:

476.194 Prohibited acts.—

(1) It is unlawful for any person to:

(a) Engage in the practice of barbering without an active license as a barber issued pursuant to the provisions of this *chapter* ~~act~~ by the department.

(b) Engage in willful or repeated violations of this *chapter* ~~act~~ or of any of the rules adopted by the board.

Section 44. Subsections (1) and (3) of section 476.214, Florida Statutes, are amended to read:

476.214 Grounds for suspending, revoking, or refusing to grant license or certificate.—

(1) The board shall have the power to revoke or suspend any license, registration card, or certificate of registration issued pursuant to this *chapter* ~~act~~, or to reprimand, censure, deny subsequent licensure of, or otherwise discipline any holder of a license, registration card, or certificate of registration issued pursuant to this *chapter* ~~act~~, for any of the following causes:

(a) Gross malpractice or gross incompetency in the practice of barbering;

(b) Practice by a person knowingly having an infectious or contagious disease; or

(c) Commission of any of the offenses described in s. 476.194.

(3) The board shall keep a record of its disciplinary proceedings against holders of licenses or certificates of registration issued pursuant to this *chapter* ~~act~~.

Section 45. Section 476.234, Florida Statutes, is amended to read:

476.234 Civil proceedings.—In addition to any other remedy, the department may file a proceeding in the name of the state seeking issuance of a restraining order, injunction, or writ of mandamus against any person who is or has been violating any of the provisions of this *chapter* ~~act~~ or the lawful rules or orders of the board, commission, or department.

Section 46. Subsection (1) of section 477.013, Florida Statutes, is amended to read:

477.013 Definitions.—As used in this chapter:

(1) "Board" means the Board of *Barbering and* Cosmetology.

Section 47. *Section 477.015, Florida Statutes, is repealed.*

Section 48. *The Barbers' Board created pursuant to section 476.054, Florida Statutes, and the Board of Cosmetology created pursuant to section 477.015, Florida Statutes, are abolished. All rules of the Barbers' Board and the Board of Cosmetology in effect on the effective date of this act shall remain in full force and shall become rules of the Board of Barbering and Cosmetology.*

Section 49. *The Board of Barbering and Cosmetology is created by this act by the amendment of section 476.054, Florida Statutes, and the repeal of section 477.015, Florida Statutes. Appointments to this board are new and shall be made by the Governor, subject to confirmation by the Senate, for initial terms of 4 years or less so that no more than two terms expire in any one year. The board shall assume responsibilities for the regulation of barbering pursuant to chapter 476, Florida Statutes, and the regulation of cosmetology pursuant to chapter 477, Florida Statutes, as provided in those chapters.*

Section 50. *The Board of Barbering and Cosmetology shall be replaced as the party of interest for any legal actions naming the Barbers' Board or the Board of Cosmetology as a party.*

Section 51. Subsection (7) of section 477.019, Florida Statutes, is amended to read:

477.019 Cosmetologists; qualifications; licensure; supervised practice; license renewal; endorsement; continuing education.—

(7)(a) The board shall prescribe by rule continuing education requirements intended to ensure protection of the public through updated training of licensees and registered specialists, not to exceed 16 hours biennially, as a condition for renewal of a license or registration as a specialist under this chapter. Continuing education courses shall include, but not be limited to, the following subjects as they relate to the practice of cosmetology: human immunodeficiency virus and acquired immune deficiency syndrome; Occupational Safety and Health Administration regulations; workers' compensation issues; state and federal laws and rules as they pertain to cosmetologists, cosmetology, salons, specialists, specialty salons, and booth renters; chemical makeup as it pertains to hair, skin, and nails; and environmental issues. ~~Courses given at cosmetology conferences may be counted toward the number of continuing education hours required if approved by the board.~~

(b) Any person whose occupation or practice is confined solely to hair braiding, hair wrapping, or body wrapping is exempt from the continuing education requirements of this subsection.

(c) *The board shall by rule establish criteria for the approval of continuing education courses and providers.* ~~The board may, by rule, require any licensee in violation of a continuing education requirement to take a refresher course or refresher course and examination in addition to any other penalty. The number of hours for the refresher course may not exceed 48 hours.~~

(d) The department shall approve all continuing education courses and providers as set forth in this subsection. The board may not approve any course which does not substantially and exclusively relate to the practice of cosmetology and serve to ensure the protection of the public. Courses given at cosmetology conferences may be counted toward the number of continuing education hours required if approved by the department.

(e) Correspondence courses may be approved if offered by a provider approved by the board under paragraph (d) and meet all relevant course criteria established by the board. Correspondence courses must include a written post course examination developed and graded by the course provider which demonstrates the licensee's understanding of the subject matter taught by the course. The board may, by rule, set the minimum allowed passing score for such examinations.

Section 52. Subsection (1) of section 477.026, Florida Statutes, is amended to read:

477.026 Fees; disposition.—

(1) The board shall set fees according to the following schedule:

(a) For cosmetologists, fees for original licensing, license renewal, and delinquent renewal shall not exceed $25.

(b) For cosmetologists, fees for endorsement application, examination, and reexamination shall not exceed $50.

(c) For cosmetology and specialty salons, fees for license application, original licensing, license renewal, and delinquent renewal shall not exceed $50.

(d) For specialists, fees for application and endorsement registration shall not exceed $30.

(e) For specialists, fees for initial registration, registration renewal, and delinquent renewal shall not exceed $50.

(f) For hair braiders, hair wrappers, and body wrappers, fees for *initial* registration*, registration renewal, and delinquent renewal* shall not exceed $25.

Section 53. Subsection (1) of section 481.209, Florida Statutes, is amended to read:

481.209 Examinations.—

(1) A person desiring to be licensed as a registered architect shall apply to the department to take the licensure examination. The department shall administer the licensure examination for architects to each applicant who the board certifies:

(a) Has completed the application form and remitted a nonrefundable application fee and an examination fee which is refundable if the applicant is found to be ineligible to take the examination;

(b)1. ~~Has successfully completed all architectural curriculum courses required by and~~ Is a graduate of a school or college of architecture accredited by the National Architectural Accreditation Board; or

2. Is a graduate of an approved architectural curriculum, evidenced by a degree from an unaccredited school or college of architecture approved by the board. The board shall adopt rules providing for the review and approval of unaccredited schools and colleges of architecture and courses of architectural study based on a review and inspection by the board of the curriculum of accredited schools and colleges of architecture in the United States~~, including those schools and colleges accredited by the National Architectural Accreditation Board~~; and

(c) Has completed, prior to examination, 1 year of the internship experience required by s. 481.211(1).

Section 54. Section 481.223, Florida Statutes, is amended to read:

481.223 Prohibitions; penalties*; injunctive relief*.—

(1) A person may not knowingly:

(a) Practice architecture unless the person is an architect or a registered architect;

(b) Practice interior design unless the person is a registered interior designer unless otherwise exempted herein;

(c) Use the name or title "architect" or "registered architect," or "interior designer" or "registered interior designer," or words to that effect, when the person is not then the holder of a valid license issued pursuant to this part;

(d) Present as his or her own the license of another;

(e) Give false or forged evidence to the board or a member thereof;

(f) Use or attempt to use an architect or interior designer license that has been suspended, revoked, or placed on inactive or delinquent status;

(g) Employ unlicensed persons to practice architecture or interior design; or

(h) Conceal information relative to violations of this part.

(2) Any person who violates any provision of *subsection (1)* ~~this section~~ commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3)(a) Notwithstanding chapter 455 or any other provision of law to the contrary, an affected person may maintain an action for injunctive relief to restrain or prevent a person from violating paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c). The prevailing party shall be entitled to actual costs and attorney's fees.

(b) For purposes of this subsection, "affected person" means a person directly affected by the actions of a person suspected of violating paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c) and includes, but is not limited to, the department, any person who received services from the alleged violator, or any private association composed primarily of members of the profession the alleged violator is practicing or offering to practice or holding himself or herself out as qualified to practice.

Section 55. Effective July 1, 2001, subsections (2) and (4) of section 489.107, Florida Statutes, are amended to read:

489.107 Construction Industry Licensing Board.—

(2) The board shall consist of *16* ~~18~~ members, of whom:

(a) Four are primarily engaged in business as general contractors;

(b) Three are primarily engaged in business as building contractors or residential contractors, however, at least one building contractor and one residential contractor shall be appointed;

(c) One is primarily engaged in business as a roofing contractor;

(d) One is primarily engaged in business as a sheet metal contractor;

(e) One is primarily engaged in business as an air-conditioning contractor;

(f) One is primarily engaged in business as a mechanical contractor;

(g) One is primarily engaged in business as a pool contractor;

(h) One is primarily engaged in business as a plumbing contractor;

(i) One is primarily engaged in business as an underground utility and excavation contractor;

(j) *Notwithstanding the provisions of s. 20.165(6), one is a* ~~Two are~~ consumer *member* ~~members~~ who *is* ~~are~~ not, and *has* ~~have~~ never been, *a member* ~~members~~ or *practitioner* ~~practitioners~~ of a profession regulated by the board or *a member* ~~members~~ of any closely related profession; and

(k) *One is a* ~~Two are~~ building *official* ~~officials~~ of a municipality or county.

(l) On the date the reduction of the number of members on the board made by this act becomes effective, the affected appointments shall be those in the reduced membership class whose terms next expire.

(4) The board shall be divided into two divisions, Division I and Division II.

(a) Division I is comprised of the general contractor, building contractor, and residential contractor members of the board; ~~one of the members appointed pursuant to paragraph (2)(j);~~ and ~~one of~~ the *member* ~~members~~ appointed pursuant to paragraph (2)(k). Division I has jurisdiction over the regulation of general contractors, building contractors, and residential contractors.

(b) Division II is comprised of the roofing contractor, sheet metal contractor, air-conditioning contractor, mechanical contractor, pool contractor, plumbing contractor, and underground utility and excavation contractor members of the board; *and* ~~one of~~ the *member* ~~members~~ appointed pursuant to paragraph (2)(j)~~; and one of the members appointed pursuant to paragraph (2)(k)~~. Division II has jurisdiction over the regulation of contractors defined in s. 489.105(3)(d)-(p).

(c) Jurisdiction for the regulation of specialty contractors defined in s. 489.105(3)(q) shall lie with the division having jurisdiction over the scope of work of the specialty contractor as defined by board rule.

Section 56. Section 489.1133, Florida Statutes, is created to read:

489.1133 Temporary certificate or registration.—The department may issue a temporary certificate or registration to any applicant who has submitted a completed application and who appears to meet all qualifications for certification or registration, pending final approval of the application and the granting of a permanent certificate or registration by the board. If the board determines that the applicant does not meet all of the requirements for certification or registration under this part, the board shall, upon notifying the applicant of his or her failure to qualify, revoke the applicant's temporary certificate or registration.

Section 57. Paragraph (b) of subsection (4) of section 489.115, Florida Statutes, as amended by chapters 98-287 and 2000-141, Laws of Florida, is amended to read:

489.115 Certification and registration; endorsement; reciprocity; renewals; continuing education.—

(4)

(b)1. Each certificateholder or registrant shall provide proof, in a form established by rule of the board, that the certificateholder or registrant has completed at least 14 classroom hours of at least 50 minutes each of continuing education courses during each biennium since the issuance or renewal of the certificate or registration. The board shall establish by rule that a portion of the required 14 hours must deal with the subject of workers' compensation, business practices, and workplace safety. The board shall by rule establish criteria for the approval of continuing education courses and providers, including requirements relating to the content of courses and standards for approval of providers, and may by rule establish criteria for accepting alternative nonclassroom continuing education on an hour-for-hour basis. The board shall prescribe by rule the continuing education, if any, which is required during the first biennium of initial licensure. A person who has been licensed for less than an entire biennium must not be required to complete the full 14 hours of continuing education.

2. In addition, the board may approve specialized continuing education courses on compliance with the wind resistance provisions for one and two family dwellings contained in the Florida Building Code and any alternate methodologies for providing such wind resistance which have been approved for use by the Florida Building Commission. *Contractors defined in s. 489.105(3)(a)-(c)* ~~Division I certificateholders or registrants~~ who demonstrate proficiency upon completion of such

specialized courses may certify plans and specifications for one and two family dwellings to be in compliance with the code or alternate methodologies, as appropriate, except for dwellings located in floodways or coastal hazard areas as defined in ss. 60.3D and E of the National Flood Insurance Program.

3. Each certificateholder or registrant shall provide to the board proof of completion of the core curriculum courses, or passing the equivalency test of the Building Code Training Program established under s. 553.841, specific to the licensing category sought, within 2 years after commencement of the program or of initial certification or registration, whichever is later. Classroom hours spent taking core curriculum courses shall count toward the number required for renewal of certificates or registration. A certificateholder or registrant who passes the equivalency test in lieu of taking the core curriculum courses shall receive full credit for core curriculum course hours.

4. The board shall require, by rule adopted pursuant to ss. 120.536(1) and 120.54, a specified number of hours in specialized or advanced module courses, approved by the Florida Building Commission, on any portion of the Florida Building Code, adopted pursuant to part VII of chapter 553, relating to the contractor's respective discipline.

Section 58. Subsection (1) of section 489.118, Florida Statutes, is amended to read:

489.118 Certification of registered contractors; grandfathering provisions.—The board shall, upon receipt of a completed application and appropriate fee, issue a certificate in the appropriate category to any contractor registered under this part who makes application to the board and can show that he or she meets each of the following requirements:

(1) Currently holds a valid registered local license in one of the contractor categories defined in s. 489.105(3)(a)-(p) *or holds a valid registered local specialty license which substantially corresponds to a type of specialty contractor recognized for state certification pursuant to board rule under s. 489.113(6)*.

Section 59. Subsection (1) of section 489.13, Florida Statutes is amended to read:

489.13 Unlicensed contracting; authority to issue or receive a building permit.—

(1) Any person performing an activity requiring licensure under this part as a construction contractor is guilty of unlicensed contracting if he or she does not hold a valid active certificate or registration authorizing him or her to perform such activity, regardless of whether he or she holds a local construction contractor license or local certificate of competency*, except where he or she holds a valid local specialty license as defined in s. 489.105(3)(q)*. Persons working outside the geographical scope of their registration are guilty of unlicensed activity for purposes of this part.

Section 60. *Subsection (6) of section 489.507, Florida Statutes, is repealed.*

Section 61. *The Electrical Contractors' Licensing Board shall review its operations and its regular board meeting lengths and locations and develop a plan to reduce its annual operating budget by $25,000, and shall submit the plan to the Department of Business and Professional Regulation by January 1, 2002.*

Section 62. Subsection (6) of section 489.511, Florida Statutes, is amended to read:

489.511 Certification; application; examinations; endorsement.—

(6) The board shall certify as qualified for certification by endorsement any individual *who applies from a state that has a mutual reciprocity endorsement agreement with the board and* ~~applying for certification~~ who~~:~~

~~(a)~~ meets the requirements for certification ~~as set forth~~ in this section; has passed a national, regional, state, or United States territorial licensing examination that is substantially equivalent to the examination required by this part; and has satisfied the requirements set forth in s. 489.521.~~; or~~

~~(b) Holds a valid license to practice electrical or alarm system contracting issued by another state or territory of the United States, if the criteria for issuance of such license was substantially equivalent to the certification criteria that existed in this state at the time the certificate was issued.~~

Section 63. Subsection (5) of section 498.005, Florida Statutes, is amended to read:

498.005 Definitions.—As used in this chapter, unless the context otherwise requires, the term:

(5) "Division" means the Division of *Real Estate* ~~Florida Land Sales, Condominiums, and Mobile Homes~~ of the Department of Business and Professional Regulation.

Section 64. Section 498.019, Florida Statutes, is amended to read:

498.019 *Professional Regulation* ~~Division of Florida Land Sales, Condominiums, and Mobile Homes~~ Trust Fund.—

~~(1) There is created within the State Treasury the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund to be used for the administration and operation of this chapter and chapters 718, 719, 721, and 723 by the division.~~

~~(2)~~ All moneys collected by the division from fees, fines, or penalties or from costs awarded to the division by a court shall be paid into the *Professional Regulation* ~~Division of Florida Land Sales, Condominiums, and Mobile Homes~~ Trust Fund *to be used to administer and enforce this chapter and rules adopted thereunder. The department shall maintain a separate account in the trust fund and shall administer the account pursuant to s. 455.219*. The Legislature shall appropriate funds from this trust fund sufficient to carry out the provisions of this chapter ~~and the provisions of law with respect to each category of business covered by this trust fund. The division shall maintain separate revenue accounts in the trust fund for each of the businesses regulated by the division. The division shall provide for the proportionate allocation among the accounts of expenses incurred by the division in the performance of its duties with respect to each of these businesses. As part of its normal budgetary process, the division shall prepare an annual report of revenue and allocated expenses related to the operation of each of these businesses which may be used to determine fees charged by the division. This subsection shall operate pursuant to the provisions of s. 215.20~~.

Section 65. Subsection (5) of section 498.049, Florida Statutes, is amended to read:

498.049 Suspension; revocation; civil penalties.—

(5) Each person who materially participates in any offer or disposition of any interest in subdivided lands in violation of this chapter or relevant rules involving fraud, deception, false pretenses, misrepresentation, or false advertising or the disposition, concealment, or diversion of any funds or assets of any person which adversely affects the interests of a purchaser of any interest in subdivided lands, and who directly or indirectly controls a subdivider or is a general partner, officer, director, agent, or employee of a subdivider shall also be liable under this subsection jointly and severally with and to the same extent as the subdivider, unless that person did not know, and in the exercise of reasonable care could not have known, of the existence of the facts creating the alleged liability. Among these persons a right of contribution shall exist, except that a creditor of a subdivider shall not be jointly and severally liable unless the creditor has assumed managerial or fiduciary responsibility in a manner related to the basis for the liability of the subdivider under this subsection. Civil penalties shall be limited to $10,000 for each offense, and all amounts collected shall be deposited with the Treasurer to the credit of the *Professional Regulation* ~~Division of Florida Land Sales, Condominiums, and Mobile Homes~~ Trust Fund. No order requiring the payment of a civil penalty

shall become effective until 20 days after the date of the order, unless otherwise agreed in writing by the person on whom the penalty is imposed.

Section 66. Subsection (2) of section 190.009, Florida Statutes, is amended to read:

190.009 Disclosure of public financing.—

(2) The Division of *Real Estate* ~~Florida Land Sales, Condominiums, and Mobile Homes~~ of the Department of Business and Professional Regulation shall ensure that disclosures made by developers pursuant to chapter 498 meet the requirements of subsection (1).

Section 67. *The regulation of land sales pursuant to chapter 498, Florida Statutes, shall remain under the Department of Business and Professional Regulation but is reassigned from the Division of Florida Land Sales, Condominiums, and Mobile Homes to the Division of Real Estate. All funds collected by the department pursuant to this regulation and all funds in the account created within the Florida Land Sales, Condominiums, and Mobile Homes Trust Fund for the purpose of this regulation shall be deposited in an account created within the Professional Regulation Trust Fund for this same purpose.*

Section 68. Subsection (17) of section 718.103, Florida Statutes, is amended to read:

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

(17) "Division" means the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation.

Section 69. Paragraph (c) of subsection (4) of section 718.105, Florida Statutes, is amended to read:

718.105 Recording of declaration.—

(4)

(c) If the sum of money held by the clerk has not been paid to the developer or association as provided in paragraph (b) by 3 years after the date the declaration was originally recorded, the clerk in his or her discretion may notify, in writing, the registered agent of the association that the sum is still available and the purpose for which it was deposited. If the association does not record the certificate within 90 days after the clerk has given the notice, the clerk may disburse the money to the developer. If the developer cannot be located, the clerk shall disburse the money to the division ~~of Florida Land Sales, Condominiums, and Mobile Homes~~ for deposit in the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund.

Section 70. Paragraph (f) of subsection (2) of section 718.112, Florida Statutes, is amended to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(f) Annual budget.—

1. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 718.504(21). A multicondominium association shall adopt a separate budget of common expenses for each condominium the association operates and shall adopt a separate budget of common expenses for the association. In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached thereto shall show amounts budgeted therefor. If, after turnover of control of the association to the unit owners, any of the expenses listed in s. 718.504(21) are not applicable, they need not be listed.

2. In addition to annual operating expenses, the budget *may* ~~shall~~ include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds $10,000. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. This subsection *applies* ~~does not apply~~ to an adopted budget in which the members of an association have determined, by a majority vote at a duly called meeting of the association, to provide *the* ~~no~~ reserves *as described in* ~~or less reserves than required by~~ this subsection. However, prior to turnover of control of an association by a developer to unit owners other than a developer pursuant to s. 718.301, the developer may vote to waive the reserves or reduce the funding of reserves for the first 2 fiscal years of the association's operation, beginning with the fiscal year in which the initial declaration is recorded, after which time reserves may be *required* ~~waived or reduced~~ only upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association. ~~If a meeting of the unit owners has been called to determine whether to waive or reduce the funding of reserves, and no such result is achieved or a quorum is not attained, the reserves as included in the budget shall go into effect.~~ After the turnover, the developer may vote its voting interest to *provide for* ~~waive or reduce~~ the funding of reserves.

3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the association. Prior to turnover of control of an association by a developer to unit owners other than the developer pursuant to s. 718.301, the developer-controlled association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the association.

4. In a multicondominium association, the only voting interests which are eligible to vote on questions that involve waiving or reducing the funding of reserves, or using existing reserve funds for purposes other than purposes for which the reserves were intended, are the voting interests of the units subject to assessment to fund the reserves in question.

Section 71. Section 718.1255, Florida Statutes, is amended to read:

718.1255 Alternative dispute resolution; ~~voluntary mediation;~~ mandatory nonbinding arbitration *and mediation; local resolution; exemptions*; legislative findings.—

(1) *APPLICABILITY* ~~DEFINITIONS~~.—

(a) The provisions of subsection (3) apply to ~~As used in this section, the term "dispute" means~~ any disagreement between two or more parties that involves~~:~~

~~(a) The authority of the board of directors, under this chapter or association document to:~~

~~1. Require any owner to take any action, or not to take any action, involving that owner's unit or the appurtenances thereto.~~

~~2. Alter or add to a common area or element.~~

~~(b)~~ the failure of a governing body, when required by this chapter or an association document, to~~:~~

~~1.~~ properly conduct elections *or to recall a board member*.

(b) The provisions of paragraph (3)(f)-(n) apply to any disagreement between two or more parties that involves:

1. The authority of the board of directors, under this chapter or an association document, to:

a. Require any owner to take any action, or not to take any action, involving that owner's unit or the appurtenances thereto; or

b. Alter or add to a common area or element.

2. The failure of a governing body, when required by this chapter or an association document, to:

a.~~2.~~ Give adequate notice of meetings or other actions*;*~~.~~

b.~~3.~~ Properly conduct meetings*; or*~~.~~

c.~~4.~~ Allow inspection of books and records.

~~"Dispute" does not include any disagreement that primarily involves: title to any unit or common element; the interpretation or enforcement of any warranty; the levy of a fee or assessment, or the collection of an assessment levied against a party; the eviction or other removal of a tenant from a unit; alleged breaches of fiduciary duty by one or more directors; or claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.~~

~~(2) VOLUNTARY MEDIATION.—Voluntary mediation through Citizen Dispute Settlement Centers as provided for in s. 44.201 is encouraged.~~

(2)~~(3)~~ LEGISLATIVE FINDINGS.—

(a) The Legislature finds that unit owners are frequently at a disadvantage when litigating against an association. Specifically, a condominium association, with its statutory assessment authority, is often more able to bear the costs and expenses of litigation than the unit owner who must rely on his or her own financial resources to satisfy the costs of litigation against the association.

(b) The Legislature finds that the courts are becoming overcrowded with condominium and other disputes, and further finds that alternative dispute resolution has been making progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to court litigation. However, the Legislature also finds that alternative dispute resolution should not be used as a mechanism to encourage the filing of frivolous or nuisance suits.

(c) There exists a need to develop a flexible means of alternative dispute resolution that directs disputes to the most efficient means of resolution.

(d) The high cost and significant delay of circuit court litigation faced by unit owners in the state can be alleviated by requiring nonbinding arbitration and mediation in appropriate cases, thereby reducing delay and attorney's fees while preserving the right of either party to have its case heard by a jury, if applicable, in a court of law.

(3)~~(4)~~ MANDATORY NONBINDING ARBITRATION AND MEDIATION OF DISPUTES.—The division ~~of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation~~ shall *provide* ~~employ full-time attorneys to act as~~ arbitrators to conduct the arbitration hearings *as required* ~~provided~~ by this chapter. The *department may employ attorneys to act as arbitrators, and the* division may also certify attorneys who are not employed by the division to act as arbitrators to conduct the arbitration hearings provided by this *chapter* ~~section~~. No person may be employed by the department as *an* ~~a full-time~~ arbitrator unless he or she is a member in good standing of The Florida Bar. The department shall promulgate rules of procedure to govern such arbitration hearings including mediation incident thereto. The decision of an arbitrator shall be final; however, such a decision shall not be deemed final agency action. Nothing in this provision shall be construed to foreclose parties from proceeding in a trial de novo unless the parties have agreed that the arbitration is binding. If such judicial proceedings are initiated, the final decision of the arbitrator shall be admissible in evidence in the trial de novo.

(a) Prior to the institution of court litigation, a party to a dispute shall petition the division for nonbinding arbitration. The petition must be accompanied by a filing fee in the amount of $50. Filing fees collected under this section must be used to defray the expenses of the alternative dispute resolution program.

(b) The petition must recite, and have attached thereto, supporting proof that the petitioner gave the respondents:

1. Advance written notice of the specific nature of the dispute;

2. A demand for relief, and a reasonable opportunity to comply or to provide the relief; and

3. Notice of the intention to file an arbitration petition or other legal action in the absence of a resolution of the dispute.

Failure to include the allegations or proof of compliance with these prerequisites requires dismissal of the petition without prejudice.

(c) Upon receipt, the petition shall be promptly reviewed by the division to determine the existence of a dispute and compliance with the requirements of paragraphs (a) and (b). If emergency relief is required and is not available through arbitration, a motion to stay the arbitration may be filed. The motion must be accompanied by a verified petition alleging facts that, if proven, would support entry of a temporary injunction, and if an appropriate motion and supporting papers are filed, the division may abate the arbitration pending a court hearing and disposition of a motion for temporary injunction.

(d) Upon determination by the division that a dispute exists and that the petition substantially meets the requirements of paragraphs (a) and (b) and any other applicable rules, a copy of the petition shall forthwith be served by the division upon all respondents.

(e) Either before or after the filing of the respondents' answer to the petition, any party may request that the arbitrator refer the case to mediation under this section and any rules adopted by the division. Upon receipt of a request for mediation, the division shall promptly contact the parties to determine if there is agreement that mediation would be appropriate. If all parties agree, the dispute must be referred to mediation. Notwithstanding a lack of an agreement by all parties, the arbitrator may refer a dispute to mediation at any time.

(f) *The arbitrator or the division may refer the parties to a Citizens Dispute Settlement Center under s. 44.201 in the county in which the dispute arose* ~~Upon referral of a case to mediation~~, *or* the parties *may agree on* ~~must select~~ a mutually acceptable mediator. To assist in the selection, the arbitrator shall provide the parties with a list of both volunteer and paid mediators that have been certified by the division under s. 718.501. If the parties are unable to agree on a mediator within the time allowed by the arbitrator *or the division*, the arbitrator *or the division* shall appoint a mediator from the list of certified mediators. If a case is referred to mediation, the parties shall attend a mediation conference, as scheduled by the parties and the mediator. If any party fails to attend a duly noticed mediation conference, without the permission or approval of the arbitrator or mediator, the arbitrator *or the division may* ~~must~~ impose sanctions against the party, including the striking of any pleadings filed, the entry of an order of dismissal or default if appropriate, and the award of costs and attorneys' fees incurred by the other parties. Unless otherwise agreed to by the parties or as provided by order of the arbitrator, a party is deemed to have appeared at a mediation conference by the physical presence of the party or its representative having full authority to settle without further consultation, provided that an association may comply by having one or more representatives present with full authority to negotiate a settlement and recommend that the board of administration ratify and approve such a settlement within 5 days from the date of the mediation conference. *The mediator or Citizens Dispute Settlement Center may charge fees for handling these cases.* The parties shall share equally the expense of mediation, unless they agree otherwise.

(g) The purpose of mediation as provided for by this section is to present the parties with an opportunity to resolve the underlying dispute ~~in good faith, and~~ with a minimum expenditure of time and resources.

(h) Mediation proceedings must generally be conducted in accordance with the Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. Persons who are not parties to the dispute are not allowed to attend the mediation conference without the consent of all parties, with the exception of counsel for the parties and corporate representatives designated to appear for a party. If the *case was referred to mediation by an arbitrator and the* ~~mediator declares an impasse after a~~ mediation conference *ends in an impasse* ~~has been held~~, the arbitration proceeding terminates, unless all parties agree in writing to continue the arbitration proceeding, in which case the arbitrator's decision shall be either binding or nonbinding, as agreed upon by the parties; in the arbitration proceeding, the arbitrator shall not consider any evidence relating to the unsuccessful mediation except in a proceeding to impose sanctions for failure to appear at the mediation conference. If the parties do not agree to continue arbitration, the arbitrator shall enter an order of dismissal, and either party may institute a suit in a court of competent jurisdiction. *If the case was referred to mediation by the division and ends in an impasse, either party may institute a suit in a court of competent jurisdiction.* The parties may seek to recover any costs and attorneys' fees incurred in connection with arbitration and mediation proceedings under this section as part of the costs and fees that may be recovered by the prevailing party in any subsequent litigation.

(i) Arbitration shall be conducted according to rules promulgated by the division. The filing of a petition for arbitration shall toll the applicable statute of limitations.

(j) At the request of any party to the arbitration, such arbitrator shall issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence and any party on whose behalf a subpoena is issued may apply to the court for orders compelling such attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided by the Florida Rules of Civil Procedure. Discovery may, in the discretion of the arbitrator, be permitted in the manner provided by the Florida Rules of Civil Procedure. Rules adopted by the division may authorize any reasonable sanctions except contempt for a violation of the arbitration procedural rules of the division or for the failure of a party to comply with a reasonable nonfinal order issued by an arbitrator which is not under judicial review.

(k) The arbitration decision shall be presented to the parties in writing. An arbitration decision is final in those disputes in which the parties have agreed to be bound. An arbitration decision is also final if a complaint for a trial de novo is not filed in a court of competent jurisdiction in which the condominium is located within 30 days. The right to file for a trial de novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the dispute. The prevailing party in an arbitration proceeding shall be awarded the costs of the arbitration and reasonable attorney's fees in an amount determined by the arbitrator. Such an award shall include the costs and reasonable attorney's fees incurred in the arbitration proceeding as well as the costs and reasonable attorney's fees incurred in preparing for and attending any scheduled mediation.

(l) The party who files a complaint for a trial de novo shall be assessed the other party's arbitration costs, court costs, and other reasonable costs, including attorney's fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is more favorable, the party who filed a complaint for trial de novo shall be awarded reasonable court costs and attorney's fees.

(m) Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a court of competent jurisdiction in which the condominium is located. A petition may not be granted unless the time for appeal by the filing of a complaint for trial de novo has expired. If a complaint for a trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has been stayed. If the petition for enforcement is granted, the petitioner shall recover reasonable attorney's fees and costs incurred in enforcing the arbitration award. A mediation settlement may also be enforced through the county or circuit court, as applicable, *by the filing of a court case.* ~~and~~ Any costs and fees incurred in the enforcement of a settlement agreement reached at mediation must be awarded to the prevailing party in any enforcement action.

(n) In the resolution of these cases on the local level, past precedent of prior division arbitration decisions shall be considered and followed where appropriate.

(4) EXEMPTIONS.—A dispute is not subject to resolution under this section if it includes any disagreement that primarily involves:

(a) Title to any unit or common element;

(b) The interpretation or enforcement of any warranty;

(c) The levy of a fee or assessment or the collection of an assessment levied against a party;

(d) The eviction or other removal of a tenant from a unit;

(e) Alleged breaches of fiduciary duty by one or more directors; or

(f) Claims for damages to a unit based upon the alleged failure of the association to maintain the common elements or condominium property.

(5) DISPUTES INVOLVING ELECTION IRREGULARITIES.—Every arbitration petition received by the division and required to be filed under this section challenging the legality of the election of any director of the board of administration shall be handled on an expedited basis in the manner provided by division rules for recall arbitration disputes.

Section 72. *The Division of Condominiums, Timeshare, and Mobile Homes of the Department of Business and Professional Regulation shall continue the arbitration of any cases which qualified for arbitration on the date the case was filed with the division and which were filed with the division prior to the date on which this act becomes law.*

Section 73. *There is appropriated 1 FTE and $440,626 from the Division of Condominiums, Timeshare, and Mobile Homes Trust Fund to the Department of Business and Professional Regulation for the purpose of investigating and resolving disputes and dealing with compliance issues relating to condominiums and cooperatives. This appropriation shall not take effect if a similar amount of funding is included in the various appropriations for compliance and enforcement in the Florida Condominiums, Timeshare, and Mobile Homes program in the fiscal year 2001-2002 General Appropriations Act.*

Section 74. Section 718.501, Florida Statutes, is amended to read:

718.501 Powers and duties of Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes.—

(1) The Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation, referred to as the "division" in this part, in addition to other powers and duties prescribed by chapter 498, has the power to enforce and ensure compliance with the provisions of this chapter and rules *adopted* ~~promulgated~~ pursuant hereto relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units. In performing its duties, the division has the following powers and duties:

(a) The division may make necessary public or private investigations within or outside this state to determine whether any person has violated this chapter or any rule or order hereunder, to aid in the enforcement of this chapter, or to aid in the adoption of rules or forms hereunder.

(b) The division may require or permit any person to file a statement in writing, under oath or otherwise, as the division determines, as to the facts and circumstances concerning a matter to be investigated.

(c) For the purpose of any investigation under this chapter, the division director or any officer or employee designated by the division

director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon the failure by a person to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the division may apply to the circuit court for an order compelling compliance.

(d) Notwithstanding any remedies available to unit owners and associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or rule promulgated pursuant hereto has occurred, the division may institute enforcement proceedings in its own name against any developer, association, officer, or member of the board of administration, or its assignees or agents, as follows:

1. The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The division may issue an order requiring the developer, association, officer, or member of the board of administration, or its assignees or agents, to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division will carry out the purposes of this chapter. Such affirmative action may include, but is not limited to, an order requiring a developer to pay moneys determined to be owed to a condominium association.

3. The division may bring an action in circuit court on behalf of a class of unit owners, lessees, or purchasers for declaratory relief, injunctive relief, or restitution.

4. The division may impose a civil penalty against a developer or association, or its assignee or agent, for any violation of this chapter or a rule promulgated pursuant hereto. The division may impose a civil penalty individually against any officer or board member who willfully and knowingly violates a provision of this chapter, a rule adopted pursuant hereto, or a final order of the division. The term "willfully and knowingly" means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the division. The division, prior to initiating formal agency action under chapter 120, shall afford the officer or board member an opportunity to voluntarily comply with this chapter, a rule adopted under this chapter, or a final order of the division. An officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but in no event shall the penalty for any offense exceed $5,000. By January 1, 1998, the division shall adopt, by rule, penalty guidelines applicable to possible violations or to categories of violations of this chapter or rules adopted by the division. The guidelines must specify a meaningful range of civil penalties for each such violation of the statute and rules and must be based upon the harm caused by the violation, the repetition of the violation, and upon such other factors deemed relevant by the division. For example, the division may consider whether the violations were committed by a developer or owner-controlled association, the size of the association, and other factors. The guidelines must designate the possible mitigating or aggravating circumstances that justify a departure from the range of penalties provided by the rules. It is the legislative intent that minor violations be distinguished from those which endanger the health, safety, or welfare of the condominium residents or other persons and that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct. This subsection does not limit the ability of the division to informally dispose of administrative actions or complaints by stipulation, agreed settlement, or consent order. All amounts collected shall be deposited with the Treasurer to the credit of the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund. If a developer fails to pay the civil penalty, the division shall thereupon issue an order directing that such developer cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall thereupon pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order will not become effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

(e) The division is authorized to prepare and disseminate a prospectus and other information to assist prospective owners, purchasers, lessees, and developers of residential condominiums in assessing the rights, privileges, and duties pertaining thereto.

(f) The division has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce the provisions of this chapter.

(g) The division shall establish procedures for providing notice to an association when the division is considering the issuance of a declaratory statement with respect to the declaration of condominium or any related document governing in such condominium community.

(h) The division shall furnish each association which pays the fees required by paragraph (2)(a) a copy of this act, subsequent changes to this act on an annual basis, an amended version of this act as it becomes available from the Secretary of State's office on a biennial basis, and the rules promulgated pursuant thereto on an annual basis.

(i) The division shall annually provide each association with a summary of declaratory statements and formal legal opinions relating to the operations of condominiums which were rendered by the division during the previous year.

(j) The division shall provide training programs for condominium association board members and unit owners.

(k) The division shall maintain a toll-free telephone number accessible to condominium unit owners.

(l) The division shall develop a program to certify both volunteer and paid mediators to provide mediation of condominium disputes. The division shall provide, upon request, a list of such mediators to any association, unit owner, or other participant in arbitration proceedings under s. 718.1255 requesting a copy of the list. The division shall include on the list of volunteer mediators only the names of persons who have received at least 20 hours of training in mediation techniques or who have mediated at least 20 disputes. In order to become initially certified by the division, paid mediators must be certified by the Supreme Court to mediate court cases in either county or circuit courts. However, the division may adopt, by rule, additional factors for the certification of paid mediators, which factors must be related to experience, education, or background. Any person initially certified as a paid mediator by the division must, in order to continue to be certified, comply with the factors or requirements imposed by rules adopted by the division.

(m) When a complaint is made, the division shall conduct its inquiry with due regard to the interests of the affected parties. Within 30 days after receipt of a complaint, the division shall acknowledge the complaint in writing and notify the complainant whether the complaint is within the jurisdiction of the division and whether additional information is needed by the division from the complainant. The division shall conduct its investigation and shall, within 90 days after receipt of the original complaint or of timely requested additional information, take action upon the complaint. However, the failure to complete the investigation within 90 days does not prevent the division from continuing the investigation, accepting or considering evidence obtained or received after 90 days, or taking administrative action if reasonable cause exists to believe that a violation of this chapter or a rule of the

division has occurred. If an investigation is not completed within the time limits established in this paragraph, the division shall, on a monthly basis, notify the complainant in writing of the status of the investigation. When reporting its action to the complainant, the division shall inform the complainant of any right to a hearing pursuant to ss. 120.569 and 120.57.

(2)(a) Effective January 1, 1992, each condominium association which operates more than two units shall pay to the division an annual fee in the amount of $4 for each residential unit in condominiums operated by the association. If the fee is not paid by March 1, then the association shall be assessed a penalty of 10 percent of the amount due, and the association will not have standing to maintain or defend any action in the courts of this state until the amount due, plus any penalty, is paid.

(b) All fees shall be deposited in the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund as provided by law.

Section 75. Paragraph (a) of subsection (2) of section 718.502, Florida Statutes, is amended to read:

718.502 Filing prior to sale or lease.—

(2)(a) Prior to filing as required by subsection (1), and prior to acquiring an ownership, leasehold, or contractual interest in the land upon which the condominium is to be developed, a developer shall not offer a contract for purchase of a unit or lease of a unit for more than 5 years. However, the developer may accept deposits for reservations upon the approval of a fully executed escrow agreement and reservation agreement form properly filed with the division ~~of Florida Land Sales, Condominiums, and Mobile Homes~~. Each filing of a proposed reservation program shall be accompanied by a filing fee of $250. Reservations shall not be taken on a proposed condominium unless the developer has an ownership, leasehold, or contractual interest in the land upon which the condominium is to be developed. The division shall notify the developer within 20 days of receipt of the reservation filing of any deficiencies contained therein. Such notification shall not preclude the determination of reservation filing deficiencies at a later date, nor shall it relieve the developer of any responsibility under the law. The escrow agreement and the reservation agreement form shall include a statement of the right of the prospective purchaser to an immediate unqualified refund of the reservation deposit moneys upon written request to the escrow agent by the prospective purchaser or the developer.

Section 76. Section 718.504, Florida Statutes, is amended to read:

718.504 Prospectus or offering circular.—Every developer of a residential condominium which contains more than 20 residential units, or which is part of a group of residential condominiums which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the division ~~of Florida Land Sales, Condominiums, and Mobile Homes~~ prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to each buyer. In addition to the prospectus or offering circular, each buyer shall be furnished a separate page entitled "Frequently Asked Questions and Answers," which shall be in accordance with a format approved by the division and a copy of the financial information required by s. 718.111. This page shall, in readable language, inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; shall indicate whether and in what amount the unit owners or the association is obligated to pay rent or land use fees for recreational or other commonly used facilities; shall contain a statement identifying that amount of assessment which, pursuant to the budget, would be levied upon each unit type, exclusive of any special assessments, and which shall further identify the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; shall state and identify any court cases in which the association is currently a party of record in which the association may face liability in excess of $100,000; and which shall further state whether membership in a recreational facilities association is mandatory, and if so, shall identify the fees currently charged per unit type. The division shall by rule require such other disclosure as in its judgment will assist prospective purchasers. The prospectus or offering circular may include more than one condominium, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(1) The front cover or the first page must contain only:

(a) The name of the condominium.

(b) The following statements in conspicuous type:

1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT REPRESENTATIONS.

(2) Summary: The next page must contain all statements required to be in conspicuous type in the prospectus or offering circular.

(3) A separate index of the contents and exhibits of the prospectus.

(4) Beginning on the first page of the text (not including the summary and index), a description of the condominium, including, but not limited to, the following information:

(a) Its name and location.

(b) A description of the condominium property, including, without limitation:

1. The number of buildings, the number of units in each building, the number of bathrooms and bedrooms in each unit, and the total number of units, if the condominium is not a phase condominium, or the maximum number of buildings that may be contained within the condominium, the minimum and maximum numbers of units in each building, the minimum and maximum numbers of bathrooms and bedrooms that may be contained in each unit, and the maximum number of units that may be contained within the condominium, if the condominium is a phase condominium.

2. The page in the condominium documents where a copy of the plot plan and survey of the condominium is located.

3. The estimated latest date of completion of constructing, finishing, and equipping. In lieu of a date, the description shall include a statement that the estimated date of completion of the condominium is in the purchase agreement and a reference to the article or paragraph containing that information.

(c) The maximum number of units that will use facilities in common with the condominium. If the maximum number of units will vary, a description of the basis for variation and the minimum amount of dollars per unit to be spent for additional recreational facilities or enlargement of such facilities. If the addition or enlargement of facilities will result in a material increase of a unit owner's maintenance expense or rental expense, if any, the maximum increase and limitations thereon shall be stated.

(5)(a) A statement in conspicuous type describing whether the condominium is created and being sold as fee simple interests or as leasehold interests. If the condominium is created or being sold on a leasehold, the location of the lease in the disclosure materials shall be stated.

(b) If timeshare estates are or may be created with respect to any unit in the condominium, a statement in conspicuous type stating that timeshare estates are created and being sold in units in the condominium.

(6) A description of the recreational and other commonly used facilities that will be used only by unit owners of the condominium, including, but not limited to, the following:

(a) Each room and its intended purposes, location, approximate floor area, and capacity in numbers of people.

(b) Each swimming pool, as to its general location, approximate size and depths, approximate deck size and capacity, and whether heated.

(c) Additional facilities, as to the number of each facility, its approximate location, approximate size, and approximate capacity.

(d) A general description of the items of personal property and the approximate number of each item of personal property that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(e) The estimated date when each room or other facility will be available for use by the unit owners.

(f)1. An identification of each room or other facility to be used by unit owners that will not be owned by the unit owners or the association;

2. A reference to the location in the disclosure materials of the lease or other agreements providing for the use of those facilities; and

3. A description of the terms of the lease or other agreements, including the length of the term; the rent payable, directly or indirectly, by each unit owner, and the total rent payable to the lessor, stated in monthly and annual amounts for the entire term of the lease; and a description of any option to purchase the property leased under any such lease, including the time the option may be exercised, the purchase price or how it is to be determined, the manner of payment, and whether the option may be exercised for a unit owner's share or only as to the entire leased property.

(g) A statement as to whether the developer may provide additional facilities not described above; their general locations and types; improvements or changes that may be made; the approximate dollar amount to be expended; and the maximum additional common expense or cost to the individual unit owners that may be charged during the first annual period of operation of the modified or added facilities.

Descriptions as to locations, areas, capacities, numbers, volumes, or sizes may be stated as approximations or minimums.

(7) A description of the recreational and other facilities that will be used in common with other condominiums, community associations, or planned developments which require the payment of the maintenance and expenses of such facilities, either directly or indirectly, by the unit owners. The description shall include, but not be limited to, the following:

(a) Each building and facility committed to be built.

(b) Facilities not committed to be built except under certain conditions, and a statement of those conditions or contingencies.

(c) As to each facility committed to be built, or which will be committed to be built upon the happening of one of the conditions in paragraph (b), a statement of whether it will be owned by the unit owners having the use thereof or by an association or other entity which will be controlled by them, or others, and the location in the exhibits of the lease or other document providing for use of those facilities.

(d) The year in which each facility will be available for use by the unit owners or, in the alternative, the maximum number of unit owners in the project at the time each of all of the facilities is committed to be completed.

(e) A general description of the items of personal property, and the approximate number of each item of personal property, that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(f) If there are leases, a description thereof, including the length of the term, the rent payable, and a description of any option to purchase.

Descriptions shall include location, areas, capacities, numbers, volumes, or sizes and may be stated as approximations or minimums.

(8) Recreation lease or associated club membership:

(a) If any recreational facilities or other facilities offered by the developer and available to, or to be used by, unit owners are to be leased or have club membership associated, the following statement in conspicuous type shall be included: THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS CONDOMINIUM. There shall be a reference to the location in the disclosure materials where the recreation lease or club membership is described in detail.

(b) If it is mandatory that unit owners pay a fee, rent, dues, or other charges under a recreational facilities lease or club membership for the use of facilities, there shall be in conspicuous type the applicable statement:

1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS MANDATORY FOR UNIT OWNERS; or

2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP, TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

4. A similar statement of the nature of the organization or the manner in which the use rights are created, and that unit owners are required to pay.

Immediately following the applicable statement, the location in the disclosure materials where the development is described in detail shall be stated.

(c) If the developer, or any other person other than the unit owners and other persons having use rights in the facilities, reserves, or is entitled to receive, any rent, fee, or other payment for the use of the facilities, then there shall be the following statement in conspicuous type: THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately following this statement, the location in the disclosure materials where the rent or land use fees are described in detail shall be stated.

(d) If, in any recreation format, whether leasehold, club, or other, any person other than the association has the right to a lien on the units to secure the payment of assessments, rent, or other exactions, there shall appear a statement in conspicuous type in substantially the following form:

1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE FOR THE USE, MAINTENANCE,

UPKEEP, OR REPAIR OF THE RECREATIONAL OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

Immediately following the applicable statement, the location in the disclosure materials where the lien or lien right is described in detail shall be stated.

(9) If the developer or any other person has the right to increase or add to the recreational facilities at any time after the establishment of the condominium whose unit owners have use rights therein, without the consent of the unit owners or associations being required, there shall appear a statement in conspicuous type in substantially the following form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this statement, the location in the disclosure materials where such reserved rights are described shall be stated.

(10) A statement of whether the developer's plan includes a program of leasing units rather than selling them, or leasing units and selling them subject to such leases. If so, there shall be a description of the plan, including the number and identification of the units and the provisions and term of the proposed leases, and a statement in boldfaced type that: THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

(11) The arrangements for management of the association and maintenance and operation of the condominium property and of other property that will serve the unit owners of the condominium property, and a description of the management contract and all other contracts for these purposes having a term in excess of 1 year, including the following:

(a) The names of contracting parties.

(b) The term of the contract.

(c) The nature of the services included.

(d) The compensation, stated on a monthly and annual basis, and provisions for increases in the compensation.

(e) A reference to the volumes and pages of the condominium documents and of the exhibits containing copies of such contracts.

Copies of all described contracts shall be attached as exhibits. If there is a contract for the management of the condominium property, then a statement in conspicuous type in substantially the following form shall appear, identifying the proposed or existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE CONTRACT MANAGER). Immediately following this statement, the location in the disclosure materials of the contract for management of the condominium property shall be stated.

(12) If the developer or any other person or persons other than the unit owners has the right to retain control of the board of administration of the association for a period of time which can exceed 1 year after the closing of the sale of a majority of the units in that condominium to persons other than successors or alternate developers, then a statement in conspicuous type in substantially the following form shall be included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD. Immediately following this statement, the location in the disclosure materials where this right to control is described in detail shall be stated.

(13) If there are any restrictions upon the sale, transfer, conveyance, or leasing of a unit, then a statement in conspicuous type in substantially the following form shall be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED. Immediately following this statement, the location in the disclosure materials where the restriction, limitation, or control on the sale, lease, or transfer of units is described in detail shall be stated.

(14) If the condominium is part of a phase project, the following information shall be stated:

(a) A statement in conspicuous type in substantially the following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the phasing is described shall be stated.

(b) A summary of the provisions of the declaration which provide for the phasing.

(c) A statement as to whether or not residential buildings and units which are added to the condominium may be substantially different from the residential buildings and units originally in the condominium. If the added residential buildings and units may be substantially different, there shall be a general description of the extent to which such added residential buildings and units may differ, and a statement in conspicuous type in substantially the following form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the extent to which added residential buildings and units may substantially differ is described shall be stated.

(d) A statement of the maximum number of buildings containing units, the maximum and minimum numbers of units in each building, the maximum number of units, and the minimum and maximum square footage of the units that may be contained within each parcel of land which may be added to the condominium.

(15) If the condominium is or may become part of a multicondominium, the following information must be provided:

(a) A statement in conspicuous type in substantially the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following this statement, the location in the prospectus or offering circular and its exhibits where the multicondominium aspects of the offering are described must be stated.

(b) A summary of the provisions in the declaration, articles of incorporation, and bylaws which establish and provide for the operation of the multicondominium, including a statement as to whether unit owners in the condominium will have the right to use recreational or other facilities located or planned to be located in other condominiums operated by the same association, and the manner of sharing the common expenses related to such facilities.

(c) A statement of the minimum and maximum number of condominiums, and the minimum and maximum number of units in each of those condominiums, which will or may be operated by the association, and the latest date by which the exact number will be finally determined.

(d) A statement as to whether any of the condominiums in the multicondominium may include units intended to be used for nonresidential purposes and the purpose or purposes permitted for such use.

(e) A general description of the location and approximate acreage of any land on which any additional condominiums to be operated by the association may be located.

(16) If the condominium is created by conversion of existing improvements, the following information shall be stated:

(a) The information required by s. 718.616.

(b) A caveat that there are no express warranties unless they are stated in writing by the developer.

(17) A summary of the restrictions, if any, to be imposed on units concerning the use of any of the condominium property, including statements as to whether there are restrictions upon children and pets, and reference to the volumes and pages of the condominium documents where such restrictions are found, or if such restrictions are contained

elsewhere, then a copy of the documents containing the restrictions shall be attached as an exhibit.

(18) If there is any land that is offered by the developer for use by the unit owners and that is neither owned by them nor leased to them, the association, or any entity controlled by unit owners and other persons having the use rights to such land, a statement shall be made as to how such land will serve the condominium. If any part of such land will serve the condominium, the statement shall describe the land and the nature and term of service, and the declaration or other instrument creating such servitude shall be included as an exhibit.

(19) The manner in which utility and other services, including, but not limited to, sewage and waste disposal, water supply, and storm drainage, will be provided and the person or entity furnishing them.

(20) An explanation of the manner in which the apportionment of common expenses and ownership of the common elements has been determined.

(21) An estimated operating budget for the condominium and the association, and a schedule of the unit owner's expenses shall be attached as an exhibit and shall contain the following information:

(a) The estimated monthly and annual expenses of the condominium and the association that are collected from unit owners by assessments.

(b) The estimated monthly and annual expenses of each unit owner for a unit, other than common expenses paid by all unit owners, payable by the unit owner to persons or entities other than the association, as well as to the association, including fees assessed pursuant to s. 718.113(1) for maintenance of limited common elements where such costs are shared only by those entitled to use the limited common element, and the total estimated monthly and annual expense. There may be excluded from this estimate expenses which are not provided for or contemplated by the condominium documents, including, but not limited to, the costs of private telephone; maintenance of the interior of condominium units, which is not the obligation of the association; maid or janitorial services privately contracted for by the unit owners; utility bills billed directly to each unit owner for utility services to his or her unit; insurance premiums other than those incurred for policies obtained by the condominium; and similar personal expenses of the unit owner. A unit owner's estimated payments for assessments shall also be stated in the estimated amounts for the times when they will be due.

(c) The estimated items of expenses of the condominium and the association, except as excluded under paragraph (b), including, but not limited to, the following items, which shall be stated either as an association expense collectible by assessments or as unit owners' expenses payable to persons other than the association:

1. Expenses for the association and condominium:

a. Administration of the association.

b. Management fees.

c. Maintenance.

d. Rent for recreational and other commonly used facilities.

e. Taxes upon association property.

f. Taxes upon leased areas.

g. Insurance.

h. Security provisions.

i. Other expenses.

j. Operating capital.

k. Reserves.

l. Fees payable to the division.

2. Expenses for a unit owner:

a. Rent for the unit, if subject to a lease.

b. Rent payable by the unit owner directly to the lessor or agent under any recreational lease or lease for the use of commonly used facilities, which use and payment is a mandatory condition of ownership and is not included in the common expense or assessments for common maintenance paid by the unit owners to the association.

(d) The estimated amounts shall be stated for a period of at least 12 months and may distinguish between the period prior to the time unit owners other than the developer elect a majority of the board of administration and the period after that date.

(22) A schedule of estimated closing expenses to be paid by a buyer or lessee of a unit and a statement of whether title opinion or title insurance policy is available to the buyer and, if so, at whose expense.

(23) The identity of the developer and the chief operating officer or principal directing the creation and sale of the condominium and a statement of its and his or her experience in this field.

(24) Copies of the following, to the extent they are applicable, shall be included as exhibits:

(a) The declaration of condominium, or the proposed declaration if the declaration has not been recorded.

(b) The articles of incorporation creating the association.

(c) The bylaws of the association.

(d) The ground lease or other underlying lease of the condominium.

(e) The management agreement and all maintenance and other contracts for management of the association and operation of the condominium and facilities used by the unit owners having a service term in excess of 1 year.

(f) The estimated operating budget for the condominium and the required schedule of unit owners' expenses.

(g) A copy of the floor plan of the unit and the plot plan showing the location of the residential buildings and the recreation and other common areas.

(h) The lease of recreational and other facilities that will be used only by unit owners of the subject condominium.

(i) The lease of facilities used by owners and others.

(j) The form of unit lease, if the offer is of a leasehold.

(k) A declaration of servitude of properties serving the condominium but not owned by unit owners or leased to them or the association.

(l) The statement of condition of the existing building or buildings, if the offering is of units in an operation being converted to condominium ownership.

(m) The statement of inspection for termite damage and treatment of the existing improvements, if the condominium is a conversion.

(n) The form of agreement for sale or lease of units.

(o) A copy of the agreement for escrow of payments made to the developer prior to closing.

(p) A copy of the documents containing any restrictions on use of the property required by subsection (16).

(25) Any prospectus or offering circular complying, prior to the effective date of this act, with the provisions of former ss. 711.69 and 711.802 may continue to be used without amendment or may be amended to comply with the provisions of this chapter.

(26) A brief narrative description of the location and effect of all existing and intended easements located or to be located on the condominium property other than those described in the declaration.

(27) If the developer is required by state or local authorities to obtain acceptance or approval of any dock or marina facilities intended to serve the condominium, a copy of any such acceptance or approval acquired by the time of filing with the division under s. 718.502(1) or a statement that such acceptance or approval has not been acquired or received.

(28) Evidence demonstrating that the developer has an ownership, leasehold, or contractual interest in the land upon which the condominium is to be developed.

Section 77. Section 718.508, Florida Statutes, is amended to read:

718.508 Regulation by Division of Hotels and Restaurants.—In addition to the authority, regulation, or control exercised by the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes pursuant to this act with respect to condominiums, buildings included in a condominium property shall be subject to the authority, regulation, or control of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, to the extent provided for in chapter 399.

Section 78. Section 718.509, Florida Statutes, is amended to read:

718.509 Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund.—

(1) There is created within the State Treasury the Division of Condominiums, Timeshare, and Mobile Homes Trust Fund, to be used for the administration and operation of this chapter and chapters 719, 721, and 723 by the division.

(2) All funds collected by the division and any amount paid for a fee or penalty under this chapter shall be deposited in the State Treasury to the credit of the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund created by s. *718.509* ~~498.019~~. *The division shall maintain separate revenue accounts in the trust fund for each business regulated by the division, and shall provide for the proportionate allocation among the accounts of expenses incurred in the performance of its duties for each of these businesses. As part of its normal budgetary process, the division shall prepare an annual report of revenue and allocated expenses related to the operation of each of these businesses, which may be used to determine fees charged by the division. The provisions of s. 215.20 apply to the trust fund.*

Section 79. Paragraph (a) of subsection (2) of section 718.608, Florida Statutes, is amended to read:

718.608 Notice of intended conversion; time of delivery; content.—

(2)(a) Each notice of intended conversion shall be dated and in writing. The notice shall contain the following statement, with the phrases of the following statement which appear in upper case printed in conspicuous type:

These apartments are being converted to condominium by . . .(name of developer). . ., the developer.

1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL AGREEMENT AS FOLLOWS:

a. If you have continuously been a resident of these apartments during the last 180 days and your rental agreement expires during the next 270 days, you may extend your rental agreement for up to 270 days after the date of this notice.

b. If you have not been a continuous resident of these apartments for the last 180 days and your rental agreement expires during the next 180 days, you may extend your rental agreement for up to 180 days after the date of this notice.

c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE DATE OF THIS NOTICE.

2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS, you may extend your rental agreement for up to 45 days after the date of this notice while you decide whether to extend your rental agreement as explained above. To do so, you must notify the developer in writing. You will then have the full 45 days to decide whether to extend your rental agreement as explained above.

3. During the extension of your rental agreement you will be charged the same rent that you are now paying.

4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION OF THE RENTAL AGREEMENT AS FOLLOWS:

a. If your rental agreement began or was extended or renewed after May 1, 1980, and your rental agreement, including extensions and renewals, has an unexpired term of 180 days or less, you may cancel your rental agreement upon 30 days' written notice and move. Also, upon 30 days' written notice, you may cancel any extension of the rental agreement.

b. If your rental agreement was not begun or was not extended or renewed after May 1, 1980, you may not cancel the rental agreement without the consent of the developer. If your rental agreement, including extensions and renewals, has an unexpired term of 180 days or less, you may, however, upon 30 days' written notice cancel any extension of the rental agreement.

5. All notices must be given in writing and sent by mail, return receipt requested, or delivered in person to the developer at this address: . . .(name and address of developer). . . .

6. If you have continuously been a resident of these apartments during the last 180 days:

a. You have the right to purchase your apartment and will have 45 days to decide whether to purchase. If you do not buy the unit at that price and the unit is later offered at a lower price, you will have the opportunity to buy the unit at the lower price. However, in all events your right to purchase the unit ends when the rental agreement or any extension of the rental agreement ends or when you waive this right in writing.

b. Within 90 days you will be provided purchase information relating to your apartment, including the price of your unit and the condition of the building. If you do not receive this information within 90 days, your rental agreement and any extension will be extended 1 day for each day over 90 days until you are given the purchase information. If you do not want this rental agreement extension, you must notify the developer in writing.

7. If you have any questions regarding this conversion or the Condominium Act, you may contact the developer or the state agency which regulates condominiums: The Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes, . . .(Tallahassee address and telephone number of division). . . .

Section 80. Subsection (17) of section 719.103, Florida Statutes, is amended to read:

719.103 Definitions.—As used in this chapter:

(17) "Division" means the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation.

Section 81. Section 719.1255, Florida Statutes, is amended to read:

719.1255 Alternative resolution of disputes.—The division ~~of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation~~ shall provide for alternative dispute resolution in accordance with s. 718.1255.

Section 82. Section 719.501, Florida Statutes, is amended to read:

719.501 Powers and duties of Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes.—

(1) The Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional

Regulation, referred to as the "division" in this part, in addition to other powers and duties prescribed by chapter 498, has the power to enforce and ensure compliance with the provisions of this chapter and rules *adopted* ~~promulgated~~ pursuant hereto relating to the development, construction, sale, lease, ownership, operation, and management of residential cooperative units. In performing its duties, the division shall have the following powers and duties:

(a) The division may make necessary public or private investigations within or outside this state to determine whether any person has violated this chapter or any rule or order hereunder, to aid in the enforcement of this chapter, or to aid in the adoption of rules or forms hereunder.

(b) The division may require or permit any person to file a statement in writing, under oath or otherwise, as the division determines, as to the facts and circumstances concerning a matter to be investigated.

(c) For the purpose of any investigation under this chapter, the division director or any officer or employee designated by the division director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon failure by a person to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the division may apply to the circuit court for an order compelling compliance.

(d) Notwithstanding any remedies available to unit owners and associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or rule promulgated pursuant hereto has occurred, the division may institute enforcement proceedings in its own name against a developer, association, officer, or member of the board, or its assignees or agents, as follows:

1. The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

2. The division may issue an order requiring the developer, association, officer, or member of the board, or its assignees or agents, to cease and desist from the unlawful practice and take such affirmative action as in the judgment of the division will carry out the purposes of this chapter. Such affirmative action may include, but is not limited to, an order requiring a developer to pay moneys determined to be owed to a condominium association.

3. The division may bring an action in circuit court on behalf of a class of unit owners, lessees, or purchasers for declaratory relief, injunctive relief, or restitution.

4. The division may impose a civil penalty against a developer or association, or its assignees or agents, for any violation of this chapter or a rule promulgated pursuant hereto. The division may impose a civil penalty individually against any officer or board member who willfully and knowingly violates a provision of this chapter, a rule adopted pursuant to this chapter, or a final order of the division. The term "willfully and knowingly" means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division, and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the division. The division, prior to initiating formal agency action under chapter 120, shall afford the officer or board member an opportunity to voluntarily comply with this chapter, a rule adopted under this chapter, or a final order of the division. An officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but in no event shall the penalty for any offense exceed $5,000. By January 1, 1998, the division shall adopt, by rule, penalty guidelines applicable to possible violations or to categories of violations of this chapter or rules adopted by the division. The guidelines must specify a meaningful range of civil penalties for each such violation of the statute and rules and must be based upon the harm caused by the violation, the repetition of the violation, and upon such other factors deemed relevant by the division. For example, the division may consider whether the violations were committed by a developer or owner-controlled association, the size of the association, and other factors. The guidelines must designate the possible mitigating or aggravating circumstances that justify a departure from the range of penalties provided by the rules. It is the legislative intent that minor violations be distinguished from those which endanger the health, safety, or welfare of the cooperative residents or other persons and that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct. This subsection does not limit the ability of the division to informally dispose of administrative actions or complaints by stipulation, agreed settlement, or consent order. All amounts collected shall be deposited with the Treasurer to the credit of the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund. If a developer fails to pay the civil penalty, the division shall thereupon issue an order directing that such developer cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall thereupon pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order shall not become effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

(e) The division is authorized to prepare and disseminate a prospectus and other information to assist prospective owners, purchasers, lessees, and developers of residential cooperatives in assessing the rights, privileges, and duties pertaining thereto.

(f) The division has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce the provisions of this chapter.

(g) The division shall establish procedures for providing notice to an association when the division is considering the issuance of a declaratory statement with respect to the cooperative documents governing such cooperative community.

(h) The division shall furnish each association which pays the fees required by paragraph (2)(a) a copy of this act, subsequent changes to this act on an annual basis, an amended version of this act as it becomes available from the Secretary of State's office on a biennial basis, and the rules promulgated pursuant thereto on an annual basis.

(i) The division shall annually provide each association with a summary of declaratory statements and formal legal opinions relating to the operations of cooperatives which were rendered by the division during the previous year.

(j) The division shall adopt uniform accounting principles, policies, and standards to be used by all associations in the preparation and presentation of all financial statements required by this chapter. The principles, policies, and standards shall take into consideration the size of the association and the total revenue collected by the association.

(k) The division shall provide training programs for cooperative association board members and unit owners.

(l) The division shall maintain a toll-free telephone number accessible to cooperative unit owners.

(m) When a complaint is made to the division, the division shall conduct its inquiry with reasonable dispatch and with due regard to the interests of the affected parties. Within 30 days after receipt of a complaint, the division shall acknowledge the complaint in writing and notify the complainant whether the complaint is within the jurisdiction

of the division and whether additional information is needed by the division from the complainant. The division shall conduct its investigation and shall, within 90 days after receipt of the original complaint or timely requested additional information, take action upon the complaint. However, the failure to complete the investigation within 90 days does not prevent the division from continuing the investigation, accepting or considering evidence obtained or received after 90 days, or taking administrative action if reasonable cause exists to believe that a violation of this chapter or a rule of the division has occurred. If an investigation is not completed within the time limits established in this paragraph, the division shall, on a monthly basis, notify the complainant in writing of the status of the investigation. When reporting its action to the complainant, the division shall inform the complainant of any right to a hearing pursuant to ss. 120.569 and 120.57.

(n) The division shall develop a program to certify both volunteer and paid mediators to provide mediation of cooperative disputes. The division shall provide, upon request, a list of such mediators to any association, unit owner, or other participant in arbitration proceedings under s. 718.1255 requesting a copy of the list. The division shall include on the list of voluntary mediators only persons who have received at least 20 hours of training in mediation techniques or have mediated at least 20 disputes. In order to become initially certified by the division, paid mediators must be certified by the Supreme Court to mediate court cases in either county or circuit courts. However, the division may adopt, by rule, additional factors for the certification of paid mediators, which factors must be related to experience, education, or background. Any person initially certified as a paid mediator by the division must, in order to continue to be certified, comply with the factors or requirements imposed by rules adopted by the division.

(2)(a) Each cooperative association shall pay to the division, on or before January 1 of each year, an annual fee in the amount of $4 for each residential unit in cooperatives operated by the association. If the fee is not paid by March 1, then the association shall be assessed a penalty of 10 percent of the amount due, and the association shall not have the standing to maintain or defend any action in the courts of this state until the amount due is paid.

(b) All fees shall be deposited in the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund as provided by law.

Section 83. Paragraph (a) of subsection (2) of section 719.502, Florida Statutes, is amended to read:

719.502 Filing prior to sale or lease.—

(2)(a) Prior to filing as required by subsection (1), and prior to acquiring an ownership, leasehold, or contractual interest in the land upon which the cooperative is to be developed, a developer shall not offer a contract for purchase or lease of a unit for more than 5 years. However, the developer may accept deposits for reservations upon the approval of a fully executed escrow agreement and reservation agreement form properly filed with the division ~~of Florida Land Sales, Condominiums, and Mobile Homes~~. Each filing of a proposed reservation program shall be accompanied by a filing fee of $250. Reservations shall not be taken on a proposed cooperative unless the developer has an ownership, leasehold, or contractual interest in the land upon which the cooperative is to be developed. The division shall notify the developer within 20 days of receipt of the reservation filing of any deficiencies contained therein. Such notification shall not preclude the determination of reservation filing deficiencies at a later date, nor shall it relieve the developer of any responsibility under the law. The escrow agreement and the reservation agreement form shall include a statement of the right of the prospective purchaser to an immediate unqualified refund of the reservation deposit moneys upon written request to the escrow agent by the prospective purchaser or the developer.

Section 84. Section 719.504, Florida Statutes, is amended to read:

719.504 Prospectus or offering circular.—Every developer of a residential cooperative which contains more than 20 residential units, or which is part of a group of residential cooperatives which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the division ~~of Florida Land Sales, Condominiums, and Mobile Homes~~ prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to each buyer. In addition to the prospectus or offering circular, each buyer shall be furnished a separate page entitled "Frequently Asked Questions and Answers," which must be in accordance with a format approved by the division. This page must, in readable language: inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; indicate whether and in what amount the unit owners or the association is obligated to pay rent or land use fees for recreational or other commonly used facilities; contain a statement identifying that amount of assessment which, pursuant to the budget, would be levied upon each unit type, exclusive of any special assessments, and which identifies the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; state and identify any court cases in which the association is currently a party of record in which the association may face liability in excess of $100,000; and state whether membership in a recreational facilities association is mandatory and, if so, identify the fees currently charged per unit type. The division shall by rule require such other disclosure as in its judgment will assist prospective purchasers. The prospectus or offering circular may include more than one cooperative, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(1) The front cover or the first page must contain only:

(a) The name of the cooperative.

(b) The following statements in conspicuous type:

1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN ACQUIRING A COOPERATIVE UNIT.

2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT REPRESENTATIONS.

(2) Summary: The next page must contain all statements required to be in conspicuous type in the prospectus or offering circular.

(3) A separate index of the contents and exhibits of the prospectus.

(4) Beginning on the first page of the text (not including the summary and index), a description of the cooperative, including, but not limited to, the following information:

(a) Its name and location.

(b) A description of the cooperative property, including, without limitation:

1. The number of buildings, the number of units in each building, the number of bathrooms and bedrooms in each unit, and the total number of units, if the cooperative is not a phase cooperative; or, if the cooperative is a phase cooperative, the maximum number of buildings that may be contained within the cooperative, the minimum and maximum number of units in each building, the minimum and maximum number of bathrooms and bedrooms that may be contained in each unit, and the maximum number of units that may be contained within the cooperative.

2. The page in the cooperative documents where a copy of the survey and plot plan of the cooperative is located.

3. The estimated latest date of completion of constructing, finishing, and equipping. In lieu of a date, a statement that the estimated date of completion of the cooperative is in the purchase agreement and a reference to the article or paragraph containing that information.

(c) The maximum number of units that will use facilities in common with the cooperative. If the maximum number of units will vary, a description of the basis for variation and the minimum amount of dollars per unit to be spent for additional recreational facilities or enlargement of such facilities. If the addition or enlargement of facilities will result in a material increase of a unit owner's maintenance expense or rental expense, if any, the maximum increase and limitations thereon shall be stated.

(5)(a) A statement in conspicuous type describing whether the cooperative is created and being sold as fee simple interests or as leasehold interests. If the cooperative is created or being sold on a leasehold, the location of the lease in the disclosure materials shall be stated.

(b) If timeshare estates are or may be created with respect to any unit in the cooperative, a statement in conspicuous type stating that timeshare estates are created and being sold in such specified units in the cooperative.

(6) A description of the recreational and other common areas that will be used only by unit owners of the cooperative, including, but not limited to, the following:

(a) Each room and its intended purposes, location, approximate floor area, and capacity in numbers of people.

(b) Each swimming pool, as to its general location, approximate size and depths, approximate deck size and capacity, and whether heated.

(c) Additional facilities, as to the number of each facility, its approximate location, approximate size, and approximate capacity.

(d) A general description of the items of personal property and the approximate number of each item of personal property that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(e) The estimated date when each room or other facility will be available for use by the unit owners.

(f)1. An identification of each room or other facility to be used by unit owners that will not be owned by the unit owners or the association;

2. A reference to the location in the disclosure materials of the lease or other agreements providing for the use of those facilities; and

3. A description of the terms of the lease or other agreements, including the length of the term; the rent payable, directly or indirectly, by each unit owner, and the total rent payable to the lessor, stated in monthly and annual amounts for the entire term of the lease; and a description of any option to purchase the property leased under any such lease, including the time the option may be exercised, the purchase price or how it is to be determined, the manner of payment, and whether the option may be exercised for a unit owner's share or only as to the entire leased property.

(g) A statement as to whether the developer may provide additional facilities not described above, their general locations and types, improvements or changes that may be made, the approximate dollar amount to be expended, and the maximum additional common expense or cost to the individual unit owners that may be charged during the first annual period of operation of the modified or added facilities.

Descriptions as to locations, areas, capacities, numbers, volumes, or sizes may be stated as approximations or minimums.

(7) A description of the recreational and other facilities that will be used in common with other cooperatives, community associations, or planned developments which require the payment of the maintenance and expenses of such facilities, either directly or indirectly, by the unit owners. The description shall include, but not be limited to, the following:

(a) Each building and facility committed to be built.

(b) Facilities not committed to be built except under certain conditions, and a statement of those conditions or contingencies.

(c) As to each facility committed to be built, or which will be committed to be built upon the happening of one of the conditions in paragraph (b), a statement of whether it will be owned by the unit owners having the use thereof or by an association or other entity which will be controlled by them, or others, and the location in the exhibits of the lease or other document providing for use of those facilities.

(d) The year in which each facility will be available for use by the unit owners or, in the alternative, the maximum number of unit owners in the project at the time each of all of the facilities is committed to be completed.

(e) A general description of the items of personal property, and the approximate number of each item of personal property, that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(f) If there are leases, a description thereof, including the length of the term, the rent payable, and a description of any option to purchase.

Descriptions shall include location, areas, capacities, numbers, volumes, or sizes and may be stated as approximations or minimums.

(8) Recreation lease or associated club membership:

(a) If any recreational facilities or other common areas offered by the developer and available to, or to be used by, unit owners are to be leased or have club membership associated, the following statement in conspicuous type shall be included: THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS COOPERATIVE; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS COOPERATIVE. There shall be a reference to the location in the disclosure materials where the recreation lease or club membership is described in detail.

(b) If it is mandatory that unit owners pay a fee, rent, dues, or other charges under a recreational facilities lease or club membership for the use of facilities, there shall be in conspicuous type the applicable statement:

1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS MANDATORY FOR UNIT OWNERS; or

2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP, TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP, REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

4. A similar statement of the nature of the organization or manner in which the use rights are created, and that unit owners are required to pay.

Immediately following the applicable statement, the location in the disclosure materials where the development is described in detail shall be stated.

(c) If the developer, or any other person other than the unit owners and other persons having use rights in the facilities, reserves, or is entitled to receive, any rent, fee, or other payment for the use of the facilities, then there shall be the following statement in conspicuous type: THE UNIT OWNERS OR THE ASSOCIATION(S) MUST PAY

RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMON AREAS. Immediately following this statement, the location in the disclosure materials where the rent or land use fees are described in detail shall be stated.

(d) If, in any recreation format, whether leasehold, club, or other, any person other than the association has the right to a lien on the units to secure the payment of assessments, rent, or other exactions, there shall appear a statement in conspicuous type in substantially the following form:

1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL OR COMMONLY USED AREAS. THE UNIT OWNER'S FAILURE TO MAKE THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

Immediately following the applicable statement, the location in the disclosure materials where the lien or lien right is described in detail shall be stated.

(9) If the developer or any other person has the right to increase or add to the recreational facilities at any time after the establishment of the cooperative whose unit owners have use rights therein, without the consent of the unit owners or associations being required, there shall appear a statement in conspicuous type in substantially the following form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this statement, the location in the disclosure materials where such reserved rights are described shall be stated.

(10) A statement of whether the developer's plan includes a program of leasing units rather than selling them, or leasing units and selling them subject to such leases. If so, there shall be a description of the plan, including the number and identification of the units and the provisions and term of the proposed leases, and a statement in boldfaced type that: THE UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

(11) The arrangements for management of the association and maintenance and operation of the cooperative property and of other property that will serve the unit owners of the cooperative property, and a description of the management contract and all other contracts for these purposes having a term in excess of 1 year, including the following:

(a) The names of contracting parties.

(b) The term of the contract.

(c) The nature of the services included.

(d) The compensation, stated on a monthly and annual basis, and provisions for increases in the compensation.

(e) A reference to the volumes and pages of the cooperative documents and of the exhibits containing copies of such contracts.

Copies of all described contracts shall be attached as exhibits. If there is a contract for the management of the cooperative property, then a statement in conspicuous type in substantially the following form shall appear, identifying the proposed or existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR THE MANAGEMENT OF THE COOPERATIVE PROPERTY WITH (NAME OF THE CONTRACT MANAGER). Immediately following this statement, the location in the disclosure materials of the contract for management of the cooperative property shall be stated.

(12) If the developer or any other person or persons other than the unit owners has the right to retain control of the board of administration of the association for a period of time which can exceed 1 year after the closing of the sale of a majority of the units in that cooperative to persons other than successors or alternate developers, then a statement in conspicuous type in substantially the following form shall be included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS HAVE BEEN SOLD. Immediately following this statement, the location in the disclosure materials where this right to control is described in detail shall be stated.

(13) If there are any restrictions upon the sale, transfer, conveyance, or leasing of a unit, then a statement in conspicuous type in substantially the following form shall be included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR CONTROLLED. Immediately following this statement, the location in the disclosure materials where the restriction, limitation, or control on the sale, lease, or transfer of units is described in detail shall be stated.

(14) If the cooperative is part of a phase project, the following shall be stated:

(a) A statement in conspicuous type in substantially the following form shall be included: THIS IS A PHASE COOPERATIVE. ADDITIONAL LAND AND UNITS MAY BE ADDED TO THIS COOPERATIVE. Immediately following this statement, the location in the disclosure materials where the phasing is described shall be stated.

(b) A summary of the provisions of the declaration providing for the phasing.

(c) A statement as to whether or not residential buildings and units which are added to the cooperative may be substantially different from the residential buildings and units originally in the cooperative, and, if the added residential buildings and units may be substantially different, there shall be a general description of the extent to which such added residential buildings and units may differ, and a statement in conspicuous type in substantially the following form shall be included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE COOPERATIVE MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE COOPERATIVE. Immediately following this statement, the location in the disclosure materials where the extent to which added residential buildings and units may substantially differ is described shall be stated.

(d) A statement of the maximum number of buildings containing units, the maximum and minimum number of units in each building, the maximum number of units, and the minimum and maximum square footage of the units that may be contained within each parcel of land which may be added to the cooperative.

(15) If the cooperative is created by conversion of existing improvements, the following information shall be stated:

(a) The information required by s. 719.616.

(b) A caveat that there are no express warranties unless they are stated in writing by the developer.

(16) A summary of the restrictions, if any, to be imposed on units concerning the use of any of the cooperative property, including statements as to whether there are restrictions upon children and pets, and reference to the volumes and pages of the cooperative documents where such restrictions are found, or if such restrictions are contained elsewhere, then a copy of the documents containing the restrictions shall be attached as an exhibit.

(17) If there is any land that is offered by the developer for use by the unit owners and that is neither owned by them nor leased to them, the association, or any entity controlled by unit owners and other persons having the use rights to such land, a statement shall be made as to how such land will serve the cooperative. If any part of such land will serve the cooperative, the statement shall describe the land and the nature and term of service, and the cooperative documents or other instrument creating such servitude shall be included as an exhibit.

(18) The manner in which utility and other services, including, but not limited to, sewage and waste disposal, water supply, and storm drainage, will be provided and the person or entity furnishing them.

(19) An explanation of the manner in which the apportionment of common expenses and ownership of the common areas have been determined.

(20) An estimated operating budget for the cooperative and the association, and a schedule of the unit owner's expenses shall be attached as an exhibit and shall contain the following information:

(a) The estimated monthly and annual expenses of the cooperative and the association that are collected from unit owners by assessments.

(b) The estimated monthly and annual expenses of each unit owner for a unit, other than assessments payable to the association, payable by the unit owner to persons or entities other than the association, and the total estimated monthly and annual expense. There may be excluded from this estimate expenses that are personal to unit owners, which are not uniformly incurred by all unit owners, or which are not provided for or contemplated by the cooperative documents, including, but not limited to, the costs of private telephone; maintenance of the interior of cooperative units, which is not the obligation of the association; maid or janitorial services privately contracted for by the unit owners; utility bills billed directly to each unit owner for utility services to his or her unit; insurance premiums other than those incurred for policies obtained by the cooperative; and similar personal expenses of the unit owner. A unit owner's estimated payments for assessments shall also be stated in the estimated amounts for the times when they will be due.

(c) The estimated items of expenses of the cooperative and the association, except as excluded under paragraph (b), including, but not limited to, the following items, which shall be stated either as an association expense collectible by assessments or as unit owners' expenses payable to persons other than the association:

1. Expenses for the association and cooperative:

a. Administration of the association.

b. Management fees.

c. Maintenance.

d. Rent for recreational and other commonly used areas.

e. Taxes upon association property.

f. Taxes upon leased areas.

g. Insurance.

h. Security provisions.

i. Other expenses.

j. Operating capital.

k. Reserves.

l. Fee payable to the division.

2. Expenses for a unit owner:

a. Rent for the unit, if subject to a lease.

b. Rent payable by the unit owner directly to the lessor or agent under any recreational lease or lease for the use of commonly used areas, which use and payment are a mandatory condition of ownership and are not included in the common expense or assessments for common maintenance paid by the unit owners to the association.

(d) The estimated amounts shall be stated for a period of at least 12 months and may distinguish between the period prior to the time unit owners other than the developer elect a majority of the board of administration and the period after that date.

(21) A schedule of estimated closing expenses to be paid by a buyer or lessee of a unit and a statement of whether title opinion or title insurance policy is available to the buyer and, if so, at whose expense.

(22) The identity of the developer and the chief operating officer or principal directing the creation and sale of the cooperative and a statement of its and his or her experience in this field.

(23) Copies of the following, to the extent they are applicable, shall be included as exhibits:

(a) The cooperative documents, or the proposed cooperative documents if the documents have not been recorded.

(b) The articles of incorporation creating the association.

(c) The bylaws of the association.

(d) The ground lease or other underlying lease of the cooperative.

(e) The management agreement and all maintenance and other contracts for management of the association and operation of the cooperative and facilities used by the unit owners having a service term in excess of 1 year.

(f) The estimated operating budget for the cooperative and the required schedule of unit owners' expenses.

(g) A copy of the floor plan of the unit and the plot plan showing the location of the residential buildings and the recreation and other common areas.

(h) The lease of recreational and other facilities that will be used only by unit owners of the subject cooperative.

(i) The lease of facilities used by owners and others.

(j) The form of unit lease, if the offer is of a leasehold.

(k) A declaration of servitude of properties serving the cooperative but not owned by unit owners or leased to them or the association.

(l) The statement of condition of the existing building or buildings, if the offering is of units in an operation being converted to cooperative ownership.

(m) The statement of inspection for termite damage and treatment of the existing improvements, if the cooperative is a conversion.

(n) The form of agreement for sale or lease of units.

(o) A copy of the agreement for escrow of payments made to the developer prior to closing.

(p) A copy of the documents containing any restrictions on use of the property required by subsection (16).

(24) Any prospectus or offering circular complying with the provisions of former ss. 711.69 and 711.802 may continue to be used without amendment, or may be amended to comply with the provisions of this chapter.

(25) A brief narrative description of the location and effect of all existing and intended easements located or to be located on the cooperative property other than those in the declaration.

(26) If the developer is required by state or local authorities to obtain acceptance or approval of any dock or marina facility intended to serve the cooperative, a copy of such acceptance or approval acquired by the time of filing with the division pursuant to s. 719.502 or a statement that such acceptance has not been acquired or received.

(27) Evidence demonstrating that the developer has an ownership, leasehold, or contractual interest in the land upon which the cooperative is to be developed.

Section 85. Section 719.508, Florida Statutes, is amended to read:

719.508 Regulation by Division of Hotels and Restaurants.—In addition to the authority, regulation, or control exercised by the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes pursuant to this act with respect to cooperatives, buildings included in a cooperative property shall be subject to the authority, regulation, or

control of the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, to the extent provided for in chapters 399 and 509.

Section 86. Paragraph (a) of subsection (2) of section 719.608, Florida Statutes, is amended to read:

719.608 Notice of intended conversion; time of delivery; content.—

(2)(a) Each notice of intended conversion shall be dated and in writing. The notice shall contain the following statement, with the phrases of the following statement which appear in upper case printed in conspicuous type:

These apartments are being converted to cooperative by . . .(name of developer). . ., the developer.

1. YOU MAY REMAIN AS A RESIDENT UNTIL THE EXPIRATION OF YOUR RENTAL AGREEMENT. FURTHER, YOU MAY EXTEND YOUR RENTAL AGREEMENT AS FOLLOWS:

a. If you have continuously been a resident of these apartments during the last 180 days and your rental agreement expires during the next 270 days, you may extend your rental agreement for up to 270 days after the date of this notice.

b. If you have not been a continuous resident of these apartments for the last 180 days and your rental agreement expires during the next 180 days, you may extend your rental agreement for up to 180 days after the date of this notice.

c. IN ORDER FOR YOU TO EXTEND YOUR RENTAL AGREEMENT, YOU MUST GIVE THE DEVELOPER WRITTEN NOTICE WITHIN 45 DAYS AFTER THE DATE OF THIS NOTICE.

2. IF YOUR RENTAL AGREEMENT EXPIRES IN THE NEXT 45 DAYS, you may extend your rental agreement for up to 45 days after the date of this notice while you decide whether to extend your rental agreement as explained above. To do so, you must notify the developer in writing. You will then have the full 45 days to decide whether to extend your rental agreement as explained above.

3. During the extension of your rental agreement you will be charged the same rent that you are now paying.

4. YOU MAY CANCEL YOUR RENTAL AGREEMENT AND ANY EXTENSION OF THE RENTAL AGREEMENT AS FOLLOWS:

a. If your rental agreement began or was extended or renewed after May 1, 1980, and your rental agreement, including extensions and renewals, has an unexpired term of 180 days or less, you may cancel your rental agreement upon 30 days' written notice and move. Also, upon 30 days' written notice, you may cancel any extension of the rental agreement.

b. If your rental agreement was not begun or was not extended or renewed after May 1, 1980, you may not cancel the rental agreement without the consent of the developer. If your rental agreement, including extensions and renewals, has an unexpired term of 180 days or less, you may, however, upon 30 days' written notice cancel any extension of the rental agreement.

5. All notices must be given in writing and sent by mail, return receipt requested, or delivered in person to the developer at this address: . . .(name and address of developer). . . .

6. If you have continuously been a resident of these apartments during the last 180 days:

a. You have the right to purchase your apartment and will have 45 days to decide whether to purchase. If you do not buy the unit at that price and the unit is later offered at a lower price, you will have the opportunity to buy the unit at the lower price. However, in all events your right to purchase the unit ends when the rental agreement or any extension of the rental agreement ends or when you waive this right in writing.

b. Within 90 days you will be provided purchase information relating to your apartment, including the price of your unit and the condition of the building. If you do not receive this information within 90 days, your rental agreement and any extension will be extended 1 day for each day over 90 days until you are given the purchase information. If you do not want this rental agreement extension, you must notify the developer in writing.

7. If you have any questions regarding this conversion or the Cooperative Act, you may contact the developer or the state agency which regulates cooperatives: The Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes, . . .(Tallahassee address and telephone number of division). . . .

Section 87. Subsection (10) of section 721.05, Florida Statutes, is amended to read:

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

(10) "Division" means the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation.

Section 88. Paragraph (d) of subsection (2) of section 721.07, Florida Statutes, is amended to read:

721.07 Public offering statement.—Prior to offering any timeshare plan, the developer must submit a registered public offering statement to the division for approval as prescribed by s. 721.03, s. 721.55, or this section. Until the division approves such filing, any contract regarding the sale of that timeshare plan is voidable by the purchaser.

(2)

(d) A developer shall have the authority to deliver to purchasers any purchaser public offering statement that is not yet approved by the division, provided that the following shall apply:

1. At the time the developer delivers an unapproved purchaser public offering statement to a purchaser pursuant to this paragraph, the developer shall deliver a fully completed and executed copy of the purchase contract required by s. 721.06 that contains the following statement in conspicuous type in substantially the following form which shall replace the statements required by s. 721.06(1)(g):

The developer is delivering to you a public offering statement that has been filed with but not yet approved by the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes. Any revisions to the unapproved public offering statement you have received must be delivered to you, but only if the revisions materially alter or modify the offering in a manner adverse to you. After the division approves the public offering statement, you will receive notice of the approval from the developer and the required revisions, if any.

Your statutory right to cancel this transaction without any penalty or obligation expires 10 calendar days after the date you signed your purchase contract or 10 calendar days after you receive revisions required to be delivered to you, if any, whichever is later.

2. After receipt of approval from the division and prior to closing, if any revisions made to the documents contained in the purchaser public offering statement materially alter or modify the offering in a manner adverse to a purchaser, the developer shall send the purchaser such revisions together with a notice containing a statement in conspicuous type in substantially the following form:

The unapproved public offering statement previously delivered to you, together with the enclosed revisions, has been approved by the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes. Accordingly, your cancellation right expires 10 calendar days after you sign your purchase contract or 10 calendar days after you receive these revisions, whichever is later. If you have any questions regarding your cancellation rights, you may contact the division at [insert division's current address].

3. After receipt of approval from the division and prior to closing, if no revisions have been made to the documents contained in the

unapproved purchaser public offering statement, or if such revisions do not materially alter or modify the offering in a manner adverse to a purchaser, the developer shall send the purchaser a notice containing a statement in conspicuous type in substantially the following form:

The unapproved public offering statement previously delivered to you has been approved by the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes. Revisions made to the unapproved public offering statement, if any, are either not required to be delivered to you or are not deemed by the developer, in its opinion, to materially alter or modify the offering in a manner that is adverse to you. Accordingly, your cancellation right expired 10 days after you signed your purchase contract. A complete copy of the approved public offering statement is available through the managing entity for inspection as part of the books and records of the plan. If you have any questions regarding your cancellation rights, you may contact the division at [insert division's current address].

Section 89. Subsection (8) of section 721.08, Florida Statutes, is amended to read:

721.08 Escrow accounts; nondisturbance instruments; alternate security arrangements; transfer of legal title.—

(8) An escrow agent holding escrowed funds pursuant to this chapter that have not been claimed for a period of 5 years after the date of deposit shall make at least one reasonable attempt to deliver such unclaimed funds to the purchaser who submitted such funds to escrow. In making such attempt, an escrow agent is entitled to rely on a purchaser's last known address as set forth in the books and records of the escrow agent and is not required to conduct any further search for the purchaser. If an escrow agent's attempt to deliver unclaimed funds to any purchaser is unsuccessful, the escrow agent may deliver such unclaimed funds to the division and the division shall deposit such unclaimed funds in the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund, 30 days after giving notice in a publication of general circulation in the county in which the timeshare property containing the purchaser's timeshare interest is located. The purchaser may claim the same at any time prior to the delivery of such funds to the division. After delivery of such funds to the division, the purchaser shall have no more rights to the unclaimed funds. The escrow agent shall not be liable for any claims from any party arising out of the escrow agent's delivery of the unclaimed funds to the division pursuant to this section.

Section 90. Section 721.26, Florida Statutes, is amended to read:

721.26 Regulation by division.—The division has the power to enforce and ensure compliance with the provisions of this chapter, except for parts III and IV, using the powers provided in this chapter, as well as the powers prescribed in chapters 498, 718, and 719. In performing its duties, the division shall have the following powers and duties:

(1) To aid in the enforcement of this chapter, or any division rule or order promulgated or issued pursuant to this chapter, the division may make necessary public or private investigations within or outside this state to determine whether any person has violated or is about to violate this chapter, or any division rule or order promulgated or issued pursuant to this chapter.

(2) The division may require or permit any person to file a written statement under oath or otherwise, as the division determines, as to the facts and circumstances concerning a matter under investigation.

(3) For the purpose of any investigation under this chapter, the director of the division or any officer or employee designated by the director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the identity, existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby shall be a violation of this chapter. In addition to the other enforcement powers authorized in this subsection, the division may, at its discretion, apply to the circuit court for an order compelling compliance.

(4) The division may prepare and disseminate a prospectus and other information to assist prospective purchasers, sellers, and managing entities of timeshare plans in assessing the rights, privileges, and duties pertaining thereto.

(5) Notwithstanding any remedies available to purchasers, if the division has reasonable cause to believe that a violation of this chapter, or of any division rule or order promulgated or issued pursuant to this chapter, has occurred, the division may institute enforcement proceedings in its own name against any regulated party, as such term is defined in this subsection:

(a)1. "Regulated party," for purposes of this section, means any developer, exchange company, seller, managing entity, association, association director, association officer, manager, management firm, escrow agent, trustee, any respective assignees or agents, or any other person having duties or obligations pursuant to this chapter.

2. Any person who materially participates in any offer or disposition of any interest in, or the management or operation of, a timeshare plan in violation of this chapter or relevant rules involving fraud, deception, false pretenses, misrepresentation, or false advertising or the disbursement, concealment, or diversion of any funds or assets, which conduct adversely affects the interests of a purchaser, and which person directly or indirectly controls a regulated party or is a general partner, officer, director, agent, or employee of such regulated party, shall be jointly and severally liable under this subsection with such regulated party, unless such person did not know, and in the exercise of reasonable care could not have known, of the existence of the facts giving rise to the violation of this chapter. A right of contribution shall exist among jointly and severally liable persons pursuant to this paragraph.

(b) The division may permit any person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby an order, rule, or letter of censure or warning, whether formal or informal, may be entered against that person.

(c) The division may issue an order requiring a regulated party to cease and desist from an unlawful practice under this chapter and take such affirmative action as in the judgment of the division will carry out the purposes of this chapter.

(d)1. The division may bring an action in circuit court for declaratory or injunctive relief or for other appropriate relief, including restitution.

2. The division shall have broad authority and discretion to petition the circuit court to appoint a receiver with respect to any managing entity which fails to perform its duties and obligations under this chapter with respect to the operation of a timeshare plan. The circumstances giving rise to an appropriate petition for receivership under this subparagraph include, but are not limited to:

a. Damage to or destruction of any of the accommodations or facilities of a timeshare plan, where the managing entity has failed to repair or reconstruct same.

b. A breach of fiduciary duty by the managing entity, including, but not limited to, undisclosed self-dealing or failure to timely assess, collect, or disburse the common expenses of the timeshare plan.

c. Failure of the managing entity to operate the timeshare plan in accordance with the timeshare instrument and this chapter.

If, under the circumstances, it appears that the events giving rise to the petition for receivership cannot be reasonably and timely corrected in a cost-effective manner consistent with the timeshare instrument, the receiver may petition the circuit court to implement such amendments or revisions to the timeshare instrument as may be necessary to enable the managing entity to resume effective operation of the timeshare plan,

or to enter an order terminating the timeshare plan, or to enter such further orders regarding the disposition of the timeshare property as the court deems appropriate, including the disposition and sale of the timeshare property held by the association or the purchasers. In the event of a receiver's sale, all rights, title, and interest held by the association or any purchaser shall be extinguished and title shall vest in the buyer. This provision applies to timeshare estates and timeshare licenses. All reasonable costs and fees of the receiver relating to the receivership shall become common expenses of the timeshare plan upon order of the court.

3. The division may revoke its approval of any filing for any timeshare plan for which a petition for receivership has been filed pursuant to this paragraph.

(e)1. The division may impose a penalty against any regulated party for a violation of this chapter or any rule adopted thereunder. A penalty may be imposed on the basis of each day of continuing violation, but in no event may the penalty for any offense exceed $10,000. All accounts collected shall be deposited with the Treasurer to the credit of the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund.

2.a. If a regulated party fails to pay a penalty, the division shall thereupon issue an order directing that such regulated party cease and desist from further operation until such time as the penalty is paid; or the division may pursue enforcement of the penalty in a court of competent jurisdiction.

b. If an association or managing entity fails to pay a civil penalty, the division may pursue enforcement in a court of competent jurisdiction.

(f) In order to permit the regulated party an opportunity either to appeal such decision administratively or to seek relief in a court of competent jurisdiction, the order imposing the penalty or the cease and desist order shall not become effective until 20 days after the date of such order.

(g) Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

(h) Notice to any regulated party shall be complete when delivered by United States mail, return receipt requested, to the party's address currently on file with the division or to such other address at which the division is able to locate the party. Every regulated party has an affirmative duty to notify the division of any change of address at least 5 business days prior to such change.

(6) The division has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce the provisions of this chapter.

(7)(a) The use of any unfair or deceptive act or practice by any person in connection with the sales or other operations of an exchange program or timeshare plan is a violation of this chapter.

(b) Any violation of the Florida Deceptive and Unfair Trade Practices Act, ss. 501.201 et seq., relating to the creation, promotion, sale, operation, or management of any timeshare plan shall also be a violation of this chapter.

(c) The division is authorized to institute proceedings against any such person and take any appropriate action authorized in this section in connection therewith, notwithstanding any remedies available to purchasers.

(8) The failure of any person to comply with any order of the division is a violation of this chapter.

Section 91. Section 721.28, Florida Statutes, is amended to read:

721.28 Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund.—All funds collected by the division and any amounts paid as fees or penalties under this chapter shall be deposited in the State Treasury to the credit of the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund created by s. *718.509* ~~498.019~~.

Section 92. Paragraph (c) of subsection (1) of section 721.301, Florida Statutes, is amended to read:

721.301 Florida Timesharing, Vacation Club, and Hospitality Program.—

(1)

(c) The director may designate funds from the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund, not to exceed $50,000 annually, to support the projects and proposals undertaken pursuant to paragraph (b). All state trust funds to be expended pursuant to this section must be matched equally with private moneys and shall comprise no more than half of the total moneys expended annually.

Section 93. Section 721.50, Florida Statutes, is amended to read:

721.50 Short title.—This part may be cited as the "McAllister Act" in recognition and appreciation for the years of extraordinary and insightful contributions by Mr. Bryan C. McAllister, Examinations Supervisor, *former* Division of Florida Land Sales, Condominiums, and Mobile Homes.

Section 94. Subsection (10) of section 721.82, Florida Statutes, is amended to read:

721.82 Definitions.—As used in this part, the term:

(10) "Registered agent" means an agent duly appointed ~~by the obligor~~ under s. 721.84 for the purpose of accepting all notices and service of process under this part *for the obligor*. A registered agent may be an individual resident in this state whose business office qualifies as a registered office, or a domestic or foreign corporation or a not-for-profit corporation as defined in chapter 617 authorized to transact business or to conduct its affairs in this state, whose business office qualifies as a registered office. A registered agent for any obligor may not be the lienholder or the attorney for the lienholder.

Section 95. Subsection (5) of section 721.84, Florida Statutes, is amended, present subsections (6) and (7) are renumbered as subsections (9) and (10), respectively, and new subsections (6), (7), and (8) are added to that section, to read:

721.84 Appointment of a registered agent; duties.—

(5) A registered agent may resign his or her agency appointment for any obligor for which he or she serves as registered agent, provided that:

(a) The resigning registered agent executes a written statement of resignation that identifies himself or herself and the street address of his or her registered office, and identifies the obligors affected by his or her resignation;

(b)*1.* A successor registered agent is appointed *by the resigning registered agent* and such successor registered agent executes an acceptance of appointment as successor registered agent and satisfies all of the requirements of subsection (1)*; or*~~.~~

2. The registered agent provides 120 days' prior written notice to the mortagee as to the mortgage lien and to the owners' association of the timeshare plan as to the assessment lien of its intent to deliver the statement of resignation. Prior to the effective date of termination of the resigning registered agent's agency and registered office, a ~~The resigning registered agent may designate the successor registered agent; however, if the resigning registered agent fails to designate a successor registered agent or the designated successor registered agent fails to accept, the~~ successor registered agent for the affected obligors may be designated by the mortgagee as to the mortgage lien and by the owners' association *of the timeshare plan* as to the assessment lien; and

(c)*1. If a successor registered agent is appointed under subparagraph (b)1.,* copies of the statement of resignation and acceptance of

appointment as successor registered agent are promptly mailed to the affected obligors at the obligors' last designated address shown on the records of the resigning registered agent and to the affected lienholders*; or*.

2. If a resigning registered agent has previously provided notice under subparagraph (b)2., a copy of the statement of resignation is promptly mailed to the affected obligors at the obligor's last designated address shown on the records of the resigning registered agent and a copy of the statement of resignation and a list of the obligors' last designated addresses shown on the records of the resigning registered agent are promptly mailed to the affected lienholders.

(6) If a successor registered agent is appointed under subparagraph (5)(b)1., the agency and registered office of the resigning registered agent are terminated and the agency and registered office of the successor registered agent are effective as of the 10th day after the date on which the statement of resignation and acceptance of appointment as successor registered agent are received by the lienholder, unless a longer period is provided in the statement of resignation and acceptance of appointment as successor registered agent.

(7) If a resigning registered agent has previously provided notice under subparagraph (5)(b)2. and a successor registered agent is not designated or the designated successor registered agent fails to accept the appointment as registered agent, the agency and registered office of the resigning registered agent are terminated effective as of the 10th day after the date on which the statement of resignation and list of obligors required by subparagraph (5)(c)2. are received by the lienholder, unless a longer period is provided in the statement of resignation. After the effective date of the termination of the agency and registered office of the resigning registered agent, if no successor registered agent exists, the affected lienholders must mail any notice or document required to be delivered by a lienholder to the obligor by first class mail if the obligor's address is within the United States, and by international air mail if the obligor's address is outside the United States, with postage fees prepaid to the obligor at the obligor's last designated address as shown on the records of the resigning registered agent. If such notice or document requires service of process on persons outside the United States, such service of process shall be accomplished by any internationally agreed means reasonably calculated to give notice. Whenever no successor registered agent exists, a successor registered agent for the affected obligors may be designated by the mortgee as to the mortgage lien and by the owners' association of the timeshare plan as to the assessment lien.

(8) If a successor registered agent is appointed under subparagraph (5)(b)2. or under subsection (7), copies of the acceptance of appointment as successor registered agent must be promptly mailed, by the mortgagee as to a registered agent appointed by the mortgagee as to the mortgage lien, and by the owners' association of the timeshare plan as to the assessment lien, to the affected obligors at the obligor's last address shown on the records of the resigning registered agent. The agency and registered office of the successor registered agent are effective as of the date provided in the acceptance of appointment.

Section 96. Subsection (1) of section 723.003, Florida Statutes, is amended to read:

723.003 Definitions.—As used in this chapter, the following words and terms have the following meanings unless clearly indicated otherwise:

(1) The term "division" means the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation.

Section 97. Paragraph (e) of subsection (5) of section 723.006, Florida Statutes, is amended to read:

723.006 Powers and duties of division.—In performing its duties, the division has the following powers and duties:

(5) Notwithstanding any remedies available to mobile home owners, mobile home park owners, and homeowners' associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or any rule promulgated pursuant hereto has occurred, the division may institute enforcement proceedings in its own name against a developer, mobile home park owner, or homeowners' association, or its assignee or agent, as follows:

(e)1. The division may impose a civil penalty against a mobile home park owner or homeowners' association, or its assignee or agent, for any violation of this chapter, a properly promulgated park rule or regulation, or a rule or regulation promulgated pursuant hereto. A penalty may be imposed on the basis of each separate violation and, if the violation is a continuing one, for each day of continuing violation, but in no event may the penalty for each separate violation or for each day of continuing violation exceed $5,000. All amounts collected shall be deposited with the Treasurer to the credit of the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund.

2. If a violator fails to pay the civil penalty, the division shall thereupon issue an order directing that such violator cease and desist from further violation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If a homeowners' association fails to pay the civil penalty, the division shall thereupon pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order shall not become effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in which the violation occurred.

Section 98. Section 723.0065, Florida Statutes, is amended to read:

723.0065 Public records exemption; findings.—The Legislature, in narrowing the existing public records exemption pursuant to s. 1, chapter 94-78, Laws of Florida, finds that a public necessity exists to keep confidential and retain the public records exemption for financial records of mobile home park owners acquired by the division ~~of Florida Land Sales, Condominiums, and Mobile Homes~~ when performing its duties under the Florida Mobile Home Act unless the mobile home park owner has violated the provisions of this chapter. In that case, only those financial records that are specifically relevant to the finding of violation should be released. If it were otherwise, the division would encounter difficulties in procuring such proprietary information which would impede the effective and efficient performance of the division's public duties. Additionally, release of such proprietary information would harm the business interests of innocent mobile home park owners to the advantage of competitors and potential purchasers. Effective monitoring of the division's performance of its duties can be conducted without access to these records, and these records are otherwise available pursuant to a civil complaint as envisioned by the act. Accordingly, the public good served by access to financial records of a mobile home park owner who has not violated the provisions of this chapter is outweighed by the interference with division investigations and the private harm that could be caused by allowing such access.

Section 99. Section 723.009, Florida Statutes, is amended to read:

723.009 Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund.—All proceeds from the fees, penalties, and fines imposed pursuant to this chapter shall be deposited into the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund created by s. *718.509* ~~498.019~~. Moneys in this fund, as appropriated by the Legislature pursuant to chapter 216, may be used to defray the expenses incurred by the division in administering the provisions of this chapter.

Section 100. Subsection (2) of section 73.073, Florida Statutes, is amended to read:

73.073 Eminent domain procedure with respect to condominium common elements.—

(2) With respect to the exercise of eminent domain or a negotiated sale for the purchase or taking of a portion of the common elements of a condominium, the condemning authority shall have the responsibility of contacting the condominium association and acquiring the most recent rolls indicating the names of the unit owners or contacting the

appropriate taxing authority to obtain the names of the owners of record on the tax rolls. Notification shall thereupon be sent by certified mail, return receipt requested, to the unit owners of record of the condominium units by the condemning authority indicating the intent to purchase or take the required property and requesting a response from the unit owner. The condemning authority shall be responsible for the expense of sending notification pursuant to this section. Such notice shall, at a minimum, include:

(a) The name and address of the condemning authority.

(b) A written or visual description of the property.

(c) The public purpose for which the property is needed.

(d) The appraisal value of the property.

(e) A clear, concise statement relating to the unit owner's right to object to the taking or appraisal value and the procedures and effects of exercising that right.

(f) A clear, concise statement relating to the power of the association to convey the property on behalf of the unit owners if no objection to the taking or appraisal value is raised, and the effects of this alternative on the unit owner.

The Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation may adopt, by rule, a standard form for such notice and may require the notice to include any additional relevant information.

Section 101. Paragraph (e) of subsection (6) of section 192.037, Florida Statutes, is amended to read:

192.037 Fee timeshare real property; taxes and assessments; escrow.—

(6)

(e) On or before May 1 of each year, a statement of receipts and disbursements of the escrow account must be filed with the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation, which may enforce this paragraph pursuant to s. 721.26. This statement must appropriately show the amount of principal and interest in such account.

Section 102. Paragraph (i) of subsection (7) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(7) Notwithstanding any other provision of this section, the department may provide:

(i) Information relative to chapters 212 and 326 to the ~~Division of Florida Land Sales, Condominiums, and Mobile Homes of the~~ Department of Business and Professional Regulation in the conduct of its official duties.

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 103. Paragraph (w) of subsection (4) of section 215.20, Florida Statutes, is amended to read:

215.20 Certain income and certain trust funds to contribute to the General Revenue Fund.—

(4) The income of a revenue nature deposited in the following described trust funds, by whatever name designated, is that from which the deductions authorized by subsection (3) shall be made:

(w) The Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund established pursuant to s. *718.509* ~~498.019~~.

The enumeration of the foregoing moneys or trust funds shall not prohibit the applicability thereto of s. 215.24 should the Governor determine that for the reasons mentioned in s. 215.24 the money or trust funds should be exempt herefrom, as it is the purpose of this law to exempt income from its force and effect when, by the operation of this law, federal matching funds or contributions or private grants to any trust fund would be lost to the state.

Section 104. Paragraph (a) of subsection (4) of section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines and standards.—

(4) Two or more developments, represented by their owners or developers to be separate developments, shall be aggregated and treated as a single development under this chapter when they are determined to be part of a unified plan of development and are physically proximate to one other.

(a) The criteria of two of the following subparagraphs must be met in order for the state land planning agency to determine that there is a unified plan of development:

1.a. The same person has retained or shared control of the developments;

b. The same person has ownership or a significant legal or equitable interest in the developments; or

c. There is common management of the developments controlling the form of physical development or disposition of parcels of the development.

2. There is a reasonable closeness in time between the completion of 80 percent or less of one development and the submission to a governmental agency of a master plan or series of plans or drawings for the other development which is indicative of a common development effort.

3. A master plan or series of plans or drawings exists covering the developments sought to be aggregated which have been submitted to a local general-purpose government, water management district, the Florida Department of Environmental Protection, or the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes for authorization to commence development. The existence or implementation of a utility's master utility plan required by the Public Service Commission or general-purpose local government or a master drainage plan shall not be the sole determinant of the existence of a master plan.

4. The voluntary sharing of infrastructure that is indicative of a common development effort or is designated specifically to accommodate the developments sought to be aggregated, except that which was implemented because it was required by a local general-purpose government; water management district; the Department of Environmental Protection; the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes; or the Public Service Commission.

5. There is a common advertising scheme or promotional plan in effect for the developments sought to be aggregated.

Section 105. Subsection (5) of section 455.116, Florida Statutes, is amended to read:

455.116 Regulation trust funds.—The following trust funds shall be placed in the department:

(5) Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes Trust Fund.

Section 106. Section 475.455, Florida Statutes, is amended to read:

475.455 Exchange of disciplinary information.—The commission shall inform the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes of the Department of Business and Professional Regulation of any disciplinary action the commission has

taken against any of its licensees. The division shall inform the commission of any disciplinary action the division has taken against any broker or salesperson registered with the division.

Section 107. Section 509.512, Florida Statutes, is amended to read:

509.512 Timeshare plan developer and exchange company exemption.—Sections 509.501-509.511 do not apply to a developer of a timeshare plan or an exchange company approved by the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes pursuant to chapter 721, but only to the extent that the developer or exchange company engages in conduct regulated under chapter 721.

Section 108. Subsection (1) of section 559.935, Florida Statutes, is amended to read:

559.935 Exemptions.—

(1) This part does not apply to:

(a) A bona fide employee of a seller of travel who is engaged solely in the business of her or his employer;

(b) Any direct common carrier of passengers or property regulated by an agency of the Federal Government or employees of such carrier when engaged solely in the transportation business of the carrier as identified in the carrier's certificate;

(c) An intrastate common carrier of passengers or property selling only transportation as defined in the applicable state or local registration or certification, or employees of such carrier when engaged solely in the transportation business of the carrier;

(d) Hotels, motels, or other places of public accommodation selling public accommodations, or employees of such hotels, motels, or other places of public accommodation, when engaged solely in making arrangements for lodging, accommodations, or sightseeing tours within the state, or taking reservations for the traveler with times, dates, locations, and accommodations certain at the time the reservations are made, provided that hotels and motels registered with the Department of Business and Professional Regulation pursuant to chapter 509 are excluded from the provisions of this chapter;

(e) Persons involved solely in the rental, leasing, or sale of residential property;

(f) Persons involved solely in the rental, leasing, or sale of transportation vehicles;

(g) Persons who make travel arrangements for themselves; for their employees or agents; for distributors, franchisees, or dealers of the persons' products or services; for entities which are financially related to the persons; or for the employees or agents of the distributor, franchisee, or dealer or financially related entity;

(h) A developer of a timeshare plan or an exchange company approved by the Division of ~~Florida Land Sales,~~ Condominiums, *Timeshare,* and Mobile Homes pursuant to chapter 721, but only to the extent that the developer or exchange company engages in conduct regulated under chapter 721; or

(i) Persons or entities engaged solely in offering diving services, including classes and sales or rentals of equipment, when engaged in making any prearranged travel-related or tourist-related services in conjunction with a primarily dive-related event.

Section 109. Effective July 1, 2001, subsection (2) of section 468.452, Florida Statutes, is amended to read:

468.452 Definitions.—For purposes of this part, the term:

(2) "Athlete agent" means a person who, directly or indirectly, recruits or solicits a student athlete to enter into an agent contract, or who, for any type of financial gain, procures, offers, promises, or attempts to obtain employment or promotional fees or benefits for a student athlete with a professional sports team or as a professional athlete, or with any promoter who markets or attempts to market the student athlete's athletic ability or athletic reputation. *This term includes all employees and other persons acting on behalf of an athlete agent who participate in the activities included under this subsection. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.*

Section 110. Effective July 1, 2001, section 468.453, Florida Statutes, is amended to read:

468.453 Licensure required; qualifications; examination; bond; exception; license nontransferable.—

(1) Any person who practices as an athlete agent in this state must be licensed pursuant to this part.

(2) A person shall be licensed as an athlete agent if the applicant:

(a) Is at least 18 years of age.

(b) Is of good moral character.

~~(c) Passes an examination provided by the department which tests the applicant's proficiency to practice as an athlete agent, including, but not limited to, knowledge of the laws and rules of this state relating to athlete agents, this part, and chapter 455.~~

(c)~~(d)~~ Has completed the application form and remitted an application fee not to exceed $500, ~~an examination fee not to exceed the actual cost for the examination plus $500,~~ an active licensure fee not to exceed $2,000, and all other applicable fees provided for in this part or in chapter 455.

(d)~~(e)~~ Has submitted to the department a fingerprint card for a criminal history records check. The fingerprint card shall be forwarded to the Division of Criminal Justice Information Systems within the Department of Law Enforcement for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The fingerprint card shall also be forwarded to the Federal Bureau of Investigation for purposes of processing the fingerprint card to determine if the applicant has a criminal history record. The information obtained by the processing of the fingerprint card by the Florida Department of Law Enforcement and the Federal Bureau of Investigation shall be sent to the department for the purpose of determining if the applicant is statutorily qualified for licensure.

(e)~~(f)~~ Has not in any jurisdiction, within the preceding 5 years, been convicted or found guilty of or entered a plea of nolo contendere for, regardless of adjudication, a crime which relates to the applicant's practice or ability to practice as an athlete agent.

~~(g) Has posted with the department a $15,000 surety bond issued by an insurance company authorized to do business in this state. The bond shall be in favor of the State of Florida, Department of Business and Professional Regulation, for the use and benefit of any student athlete or college or university within Florida who or which is injured or damaged, including reasonable costs and attorney's fees, as a result of acts or omissions by the athlete agent pursuant to a license issued under this part. The bond shall be written in the form determined by the department. The bond shall provide that the athlete agent is responsible for the acts or omissions of any representatives acting under the athlete agent's supervision or authority. The bond shall be in effect for and cover all times that the athlete agent has an active license and conducts business pursuant to that license in this or any other state.~~

(3) *An unlicensed individual may act as an athlete agent if:*

(a) A student-athlete or person acting on the athlete's behalf initiates communication with the individual; and

(b) Within 7 days after an initial act as an athlete agent, the individual submits an application for licensure. ~~Members of The Florida Bar are exempt from the state laws and rules component, and the fee for such, of the examination required by this section.~~

(4) A license issued to an athlete agent is not transferable.

(5) By acting as an athlete agent in this state, a nonresident individual appoints the department as the individual's agent for service of process in any civil action related to the individual's acting as an athlete agent.

(6) The department may issue a temporary license while an application for licensure is pending. If the department issues a notice of intent to deny the license application, the initial temporary license expires and may not be extended during any proceeding or administrative or judicial review.

Section 111. Effective July 1, 2001, section 468.454, Florida Statutes, is amended to read:

468.454 Contracts.—

(1) An agent contract must be in a record, signed, or otherwise authenticated by the parties.

(2) An agent contract must state:

(a) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent and any other consideration the agent has received or will receive from any other source under the contract;

(b) The name of any person not listed in the licensure application who will be compensated because the student-athlete signed the agent contract;

(c) A description of any expenses that the student-athlete agrees to reimburse;

(d) A description of the services to be provided to the student-athlete;

(e) The duration of the contract; and

(f) The date of execution.

(3) An agent contract must contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:

WARNING TO STUDENT-ATHLETE

IF YOU SIGN THE CONTRACT:

1. YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;

2. IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THE CONTRACT, YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

3. YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. HOWEVER, CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

(4) An agent contract that does not conform to this section is voidable by the student-athlete. If a student-athlete voids an agent contract, the student-athlete is not required to pay any consideration or return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

(5) The athlete agent shall give a record of the signed or authenticated agent contract to the student-athlete at the time of execution.

(6) Within 72 hours after entering into an agent contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent must give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

(7) Within 72 hours after entering into an agent contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete must inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agent contract.

(8) A student-athlete may cancel an agent contract by giving notice of the cancellation to the athlete agent in a record within 14 days after the contract is signed.

(9) A student-athlete may not waive the right to cancel an agent contract.

(10) If a student-athlete cancels an agent contract, the student-athlete is not required to pay any consideration or return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

~~(1) An athlete agent and a student athlete who enter into an agent contract must provide written notice of the contract to the athletic director or the president of the college or university in which the student athlete is enrolled. The athlete agent and the student must give the notice before the contracting student athlete practices or participates in any intercollegiate athletic event or within 72 hours after entering into said contract, whichever comes first. Failure of the athlete agent to provide this notification is a felony of the third degree, punishable as provided in ss. 775.082, 775.083, 775.084, 775.089, and 775.091.~~

~~(2) A written contract between a student athlete and an athlete agent must state the fees and percentages to be paid by the student athlete to the agent and must have a notice printed near the student athlete's signature containing the following statement in 10-point boldfaced type:~~

~~"WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS CONTRACT, YOU WILL LIKELY IMMEDIATELY LOSE YOUR ELIGIBILITY TO COMPETE IN INTERCOLLEGIATE ATHLETICS. TO AVOID CRIMINAL PROSECUTION YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED INTO THIS CONTRACT TO THE ATHLETIC DIRECTOR OR PRESIDENT OF YOUR COLLEGE OR UNIVERSITY WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT OR PRIOR TO PARTICIPATING IN INTERCOLLEGIATE ATHLETICS, WHICHEVER COMES FIRST. FAILURE TO PROVIDE THIS NOTICE IS A CRIMINAL OFFENSE. DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS CONTRACT, THE INTERCOLLEGIATE ATHLETIC ASSOCIATION OR CONFERENCE TO WHICH YOUR COLLEGE OR UNIVERSITY BELONGS MAY NOT RESTORE YOUR ELIGIBILITY TO PARTICIPATE IN INTERCOLLEGIATE ATHLETICS."~~

~~(3) An agent contract which does not meet the requirements of this section is void and unenforceable.~~

~~(4) Within 15 days after the date the athletic director or president of the college or university of the student athlete receives the notice required by this section that a student athlete has entered into an athlete agent contract, the student athlete shall have the right to rescind the contract with the athlete agent by giving written notice to the athlete agent of the student athlete's rescission of the contract. The student athlete may not under any circumstances waive the student athlete's right to rescind the agent contract.~~

~~(5) A postdated agent contract is void and unenforceable.~~

(11)~~(6)~~ An athlete agent shall not enter into an agent contract that purports to or takes effect at a future time after the student athlete no longer has remaining eligibility to participate in intercollegiate athletics. Such a contract is void and unenforceable.

(12)~~(7)~~ An agent contract between a student athlete and a person not licensed under this part is void and unenforceable.

Section 112. Effective July 1, 2001, subsection (3) of section 468.456, Florida Statutes, is amended to read:

468.456 Prohibited acts.—

(3) When the department finds any person guilty of any of the prohibited acts set forth in subsection (1), the department may enter an order imposing one or more of the penalties provided for in s. 455.227*, and an administrative fine not to exceed $25,000 for each separate offense*. In addition to any other penalties or disciplinary actions provided for in this part, the department shall suspend or revoke the license of any athlete agent licensed under this part who violates paragraph (1)(f) or paragraph (1)(o) or s. 468.45615.

Section 113. Effective July 1, 2001, subsection (4) is added to section 468.45615, Florida Statutes, to read:

468.45615 Provision of illegal inducements to athletes prohibited; penalties; license suspension.—

(4)(a) An athlete agent, with the intent to induce a student-athlete to enter into an agent contract, may not:

1. Give any materially false or misleading information or make a materially false promise or representation;

2. Furnish anything of value to a student-athlete before the student-athlete enters into the agent contract; or

3. Furnish anything of value to any individual other than the student-athlete or another athlete agent.

(b) An athlete agent may not intentionally:

1. Initiate contact with a student-athlete unless licensed under this part;

2. Refuse or fail to retain or permit inspection of the records required to be retained by s. 468.4565;

3. Provide materially false or misleading information in an application for licensure;

4. Predate or postdate an agent contract;

5. Fail to give notice of the existence of an agent contract as required by s. 468.454(6); or

6. Fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agent contract for a sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

(c) An athlete agent who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 114. Effective July 1, 2001, section 468.4562, Florida Statutes, is amended to read:

468.4562 Civil action by institution.—

(1) A college or university may sue for damages, as provided by this section, any person who violates this part. A college or university may seek equitable relief to prevent or minimize harm arising from acts or omissions which are or would be a violation of this part.

(2) For purposes of this section, a college or university is damaged if, because of activities of the person, the college or university is penalized*,* ~~or is~~ disqualified*,* or suspended from participation in intercollegiate athletics by a national association for the promotion and regulation of intercollegiate athletics*,* ~~or~~ by an intercollegiate athletic conference *or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such organization* and, because of that penalty, disqualification, ~~or~~ suspension, *or action* the institution:

(a) Loses revenue from media coverage of a sports contest;

(b) Loses the right to grant an athletic scholarship;

(c) Loses the right to recruit an athlete;

(d) Is prohibited from participating in postseason athletic competition;

(e) Forfeits an athletic contest; or

(f) Otherwise suffers an adverse financial impact.

(3) An institution that prevails in a suit brought under this section may recover:

(a) Actual damages;

(b) Punitive damages;

(c) Treble damages;

(d) Court costs; and

(e) Reasonable attorney's fees.

(4) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.

(5) Any liability of the athlete agent or the former student-athlete under this section is several and not joint.

(6) This part does not restrict rights, remedies, or defenses of any person under law or equity.

Section 115. Effective July 1, 2001, subsection (1) of section 468.4565, Florida Statutes, is amended to read:

468.4565 Business records requirement.—

(1) An athlete agent ~~who holds an active license and engages in business as an athlete agent~~ shall establish and maintain complete financial and business records. The athlete agent shall save each entry into a financial or business record for at least *5* **4** years from the date of entry. *These records must include, but shall not be limited to:*

(a) The name and address of each individual represented by the athlete agent;

(b) Any agent contract entered into by the athlete agent; and

(c) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agent contract.

Section 116. *Effective July 1, 2001, sections 468.4563 and 468.4564, Florida Statutes, are repealed.*

Section 117. Section 702.09, Florida Statutes, is amended to read:

702.09 Definitions.—For the purposes of ss. 702.07 and 702.08 the words "decree of foreclosure" shall include a judgment or order rendered or passed in the foreclosure proceedings in which the decree of foreclosure shall be rescinded, vacated, and set aside; the word "mortgage" shall mean any written instrument securing the payment of money or advances *and shall include liens to secure payment of assessments arising under chapters 718, 719, and 720*; the word "debt" shall include promissory notes, bonds, and all other written obligations given for the payment of money; the words "foreclosure proceedings" shall embrace every action in the circuit *or county* courts of this state wherein it is sought to foreclose a mortgage and sell the property covered by the same; and the word "property" shall mean and include both real and personal property.

Section 118. Paragraph (h) of subsection (4) and subsection (5) of section 718.104, Florida Statutes, are amended to read:

718.104 Creation of condominiums; contents of declaration.—Every condominium created in this state shall be created pursuant to this chapter.

(4) The declaration must contain or provide for the following matters:

(h) If a developer reserves the right, in a declaration recorded on or after July 1, 2000, to create a multicondominium, the declaration must state, or provide a specific formula for determining, the fractional or percentage shares of liability for the common expenses of the association and of ownership of the common surplus of the association to be allocated to the units in each condominium to be operated by the association. If *a* ~~the~~ declaration *recorded on or after July 1, 2000, for a condominium operated by a multicondominium association,* as originally recorded*,* fails to so provide, the share of liability for the common expenses of the association and of ownership of the common surplus of the association allocated to each unit in each condominium operated by the association shall be a fraction of the whole, the numerator of which is the number "one" and the denominator of which is the total number of units in all condominiums operated by the association.

(5) The declaration *as originally recorded, or as amended pursuant to the procedures provided therein,* may include covenants and restrictions concerning the use, occupancy, and transfer of the units permitted by law with reference to real property. *With the exception of amendments that materially modify unit appurtenances as provided in s. 718.110(4), amendments may be applied to owners of units existing as of the effective date of the amendment. This section is intended to clarify existing law and applies to associations existing on the effective date of this act.* However, the rule against perpetuities shall not defeat a right given any person or entity by the declaration for the purpose of allowing unit owners to retain reasonable control over the use, occupancy, and transfer of units.

Section 119. Paragraph (b) of subsection (2) of section 718.106, Florida Statutes, is amended to read:

718.106 Condominium parcels; appurtenances; possession and enjoyment.—

(2) There shall pass with a unit, as appurtenances thereto:

(b) The exclusive right to use such portion of the common elements as may be provided by the declaration, including the right to transfer such right to other units or unit owners to the extent authorized by the declaration as originally recorded, or amendments to the declaration adopted *pursuant to the provisions contained therein* ~~under s. 718.110(2)~~. *Amendments to declarations of condominium providing for the transfer of use rights with respect to limited common elements are not amendments which materially modify unit appurtenances as described in s. 718.110(4). However, in order to be effective, the transfer of use rights with respect to limited common elements must be effectuated in conformity with the procedures set forth in the declaration as originally recorded or as amended. Further, such transfers must be evidenced by a written instrument which must be executed with the formalities of a deed and recorded in the land records of the county in which the condominium is located in order to be effective. Such instrument of transfer must also specify the legal description of the unit which is transferring use rights, as well as the legal description of the unit obtaining the transfer of such rights. This section is intended to clarify existing law and applies to associations existing on the effective date of this act.*

Section 120. Subsection (4) of section 718.110, Florida Statutes, is amended to read:

718.110 Amendment of declaration; correction of error or omission in declaration by circuit court.—

(4) Unless otherwise provided in the declaration as originally recorded, no amendment may change the configuration or size of any unit in any material fashion, materially alter or modify the appurtenances to the unit, or change the proportion or percentage by which the unit owner shares the common expenses of the condominium and owns the common surplus of the condominium unless the record owner of the unit and all record owners of liens on the unit join in the execution of the amendment and unless all the record owners of all other units in the same condominium approve the amendment. The acquisition of property by the association, and material alterations or substantial additions to such property or the common elements by the association in accordance with s. 718.111(7) or s. 718.113, *amendments providing for the transfer of use rights in limited common elements pursuant to s. 718.106(2)(b), and amendments restricting or modifying the right to lease condominium units* shall not be deemed to constitute a material alteration or modification of the appurtenances to the units. *With the exception of amendments that materially modify unit appurtenances as provided in this section, amendments may be applied to owners of units existing as of the effective date of the amendment. This section is intended to clarify existing law and applies to associations existing on the effective date of this act.* A declaration recorded after April 1, 1992, may not require the approval of less than a majority of total voting interests of the condominium for amendments under this subsection, unless otherwise required by a governmental entity.

Section 121. Subsection (4), paragraph (a) of subsection (7), and subsection (13) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—

(4) ASSESSMENTS; MANAGEMENT OF COMMON ELEMENTS.—The association has the power to make and collect assessments and to lease, maintain, repair, and replace the common elements *or association property*; however, the association may not charge a use fee against a unit owner for the use of common elements or association property unless otherwise provided for in the declaration of condominium or by a majority vote of the association or unless the charges relate to ~~expenses incurred by~~ an owner having exclusive use of the common elements or association property.

(7) TITLE TO PROPERTY.—

(a) The association has the power to acquire title to property or otherwise hold, convey, lease, and mortgage association property for the use and benefit of its members. The power to acquire personal property shall be exercised by the board of administration. Except as otherwise permitted in subsections (8) and (9) and in s. 718.114, no association may acquire, convey, ~~lease,~~ or mortgage association real property except in the manner provided in the declaration, and if the declaration does not specify the procedure, then approval of 75 percent of the total voting interests shall be required.

(13) FINANCIAL REPORTING.—Within 90 days after the end of the fiscal year, or annually on a date provided in the bylaws, the association shall prepare and complete, or *contract for the preparation and completion of* ~~cause to be prepared and completed by a third party~~, a financial report for the preceding fiscal year. Within 21 days after the *final* financial report is completed *by the association* or received ~~by the association~~ from the third party, *but in no event later than 120 days after the end of the fiscal year, or such other date as is provided in the bylaws,* the association shall mail to each unit owner at the address last furnished to the association by the unit owner, or hand deliver to each unit owner, a copy of the financial report or a notice that a copy of the financial report will be mailed or hand delivered to the unit owner, without charge, upon receipt of a written request from the unit owner. The division shall adopt rules setting forth uniform accounting principles and standards to be used by all associations and shall adopt rules addressing financial reporting requirements for multicondominium associations. In adopting such rules, the division shall consider the number of members and annual revenues of an association. Financial reports shall be prepared as follows:

(a) An association that meets the criteria of this paragraph shall prepare or cause to be prepared a complete set of financial statements in accordance with generally accepted accounting principles. The financial statements shall be based upon the association's total annual revenues, as follows:

1. An association with total annual revenues of $100,000 or more, but less than $200,000, shall prepare compiled financial statements.

2. An association with total annual revenues of at least $200,000, but less than $400,000, shall prepare reviewed financial statements.

3. An association with total annual revenues of $400,000 or more shall prepare audited financial statements.

(b)1. An association with total annual revenues of less than $100,000 shall prepare a report of cash receipts and expenditures.

2. An association which operates less than 50 units, regardless of the association's annual revenues, shall prepare a report of cash receipts and expenditures in lieu of financial statements required by paragraph (a).

3. A report of cash receipts and disbursements must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security, professional and management fees and expenses, taxes, costs for recreation facilities, expenses for refuse collection and utility services, expenses for lawn care, costs for building maintenance and repair, insurance costs, administration and salary expenses, and reserves accumulated and expended for capital expenditures, deferred maintenance, and any other category for which the association maintains reserves.

(c) An association may prepare or cause to be prepared, without a meeting of or approval by the unit owners:

1. Compiled, reviewed, or audited financial statements, if the association is required to prepare a report of cash receipts and expenditures;

2. Reviewed or audited financial statements, if the association is required to prepare compiled financial statements; or

3. Audited financial statements if the association is required to prepare reviewed financial statements.

(d) If approved by a majority of the voting interests present at a properly called meeting of the association, an association may prepare or cause to be prepared:

1. A report of cash receipts and expenditures in lieu of a compiled, reviewed, or audited financial statement;

2. A report of cash receipts and expenditures or a compiled financial statement in lieu of a reviewed or audited financial statement; or

3. A report of cash receipts and expenditures, a compiled financial statement, or a reviewed financial statement in lieu of an audited financial statement.

Such meeting and approval must occur prior to the end of the fiscal year and is effective only for the fiscal year in which the vote is taken. With respect to an association to which the developer has not turned over control of the association, all unit owners, including the developer, may vote on issues related to the preparation of financial reports for the first 2 fiscal years of the association's operation, beginning with the fiscal year in which the declaration is recorded. Thereafter, all unit owners except the developer may vote on such issues until control is turned over to the association by the developer.

Section 122. Subsection (3) of section 718.112, Florida Statutes, is amended to read:

718.112 Bylaws.—

(3) OPTIONAL PROVISIONS.—The bylaws *as originally recorded, or as amended pursuant to the procedure provided therein,* may provide for the following:

(a) A method of adopting and amending administrative rules and regulations governing the details of the operation and use of the common elements.

(b) Restrictions on and requirements for the use, maintenance, and appearance of the units and the use of the common elements.

(c) Other provisions which are not inconsistent with this chapter or with the declaration, as may be desired. *This subsection is intended to clarify existing law and applies to associations existing on the effective date of this act.*

Section 123. Subsection (2) of section 718.113, Florida Statutes, is amended to read:

718.113 Maintenance; limitation upon improvement; display of flag; hurricane shutters.—

(2)(a) Except as otherwise provided in this section, there shall be no material alteration or substantial additions to the common elements or to real property which is association property, except in a manner provided in the declaration *as originally recorded or as amended pursuant to the procedures provided therein*. If the declaration *as originally recorded or amended* does not specify the procedure for approval of material alterations or substantial additions, 75 percent of the total voting interests of the association must approve the alterations or additions. *This paragraph is intended to clarify existing law and applies to associations existing on the effective date of this act.*

(b) There shall not be any material alteration of, or substantial addition to, the common elements of any condominium operated by a multicondominium association unless approved in the manner provided in the declaration of the affected condominium or condominiums *as originally recorded, or as amended pursuant to the procedures provided therein*. If a declaration *as originally recorded or amended* does not specify a procedure for approving such an alteration or addition, the approval of 75 percent of the total voting interests of each affected condominium is required. This subsection does not prohibit a provision in any declaration, articles of incorporation, or bylaws *as originally recorded or amended* requiring the approval of unit owners in any condominium operated by the same association or requiring board approval before a material alteration or substantial addition to the common elements is permitted. *This paragraph is intended to clarify existing law and applies to associations existing on the effective date of this act.*

(c) There shall not be any material alteration or substantial addition made to association real property operated by a multicondominium association, except as provided in the declaration, articles of incorporation, or bylaws *as said documents are originally recorded or amended pursuant to the procedures provided therein*. If the declaration, articles of incorporation, or bylaws do not specify the procedure for approving an alteration or addition to association real property, the approval of 75 percent of the total voting interests of the association is required. *This paragraph is intended to clarify existing law and applies to associations existing on the effective date of this act.*

Section 124. Paragraphs (b) and (c) of subsection (1) of section 718.115, Florida Statutes, are amended to read:

718.115 Common expenses and common surplus.—

(1)

(b) The common expenses of a condominium within a multicondominium are the common expenses directly attributable to the operation of that condominium. The common expenses of a multicondominium association do not include the common expenses directly attributable to the operation of any specific condominium or condominiums within the multicondominium. *This paragraph is intended to clarify existing law and applies to associations existing on the effective date of this act.*

(c) The common expenses of a multicondominium association may include categories of expenses related to the property or common elements within a specific condominium in the multicondominium if such property or common elements are areas in which all members of the multicondominium association have use rights or from which all members receive tangible economic benefits. Such common expenses of the association shall be identified in the declaration or bylaws of each condominium within the multicondominium association. *This paragraph is intended to clarify existing law and applies to associations existing on the effective date of this act.*

Section 125. Subsections (1) and (4) of section 718.405, Florida Statutes, are amended to read:

718.405 Multicondominiums; multicondominium associations.—

(1) An association may operate more than one condominium. *For multicondominiums created on or after July 1, 2000,* ~~if~~ the declaration for each condominium ~~to be~~ operated by that association *shall provide* ~~provides~~ for participation in a multicondominium, in conformity with this section, and *disclose* ~~discloses~~ or *describe* ~~describes~~:

(a) The manner or formula by which the assets, liabilities, common surplus, and common expenses of the association will be apportioned among the units within the condominiums operated by the association, in accordance with s. 718.104(4)(g) or (h), as applicable.

(b) Whether unit owners in any other condominium, or any other persons, will or may have the right to use recreational areas or any other facilities or amenities that are common elements of the condominium, and, if so, the specific formula by which the other users will share the common expenses related to those facilities or amenities.

(c) Recreational and other commonly used facilities or amenities which the developer has committed to provide that will be owned, leased by, or dedicated by a recorded plat to the association but which are not included within any condominium operated by the association. The developer may reserve the right to add additional facilities or amenities if the declaration and prospectus for each condominium to be operated by the association contains the following statement in conspicuous type and in substantially the following form: RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT OF UNIT OWNERS OR THE ASSOCIATION.

(d) The voting rights of the unit owners in the election of directors and in other multicondominium association affairs when a vote of the owners is taken, including, but not limited to, a statement as to whether each unit owner will have a right to personally cast his or her own vote in all matters voted upon.

(4) This section does not prevent or restrict the formation of a multicondominium by the merger or consolidation of two or more condominium associations. Mergers or consolidations of associations shall be accomplished in accordance with this chapter, the declarations of the condominiums being merged or consolidated, and chapter 617. Section 718.110(4) does not apply to amendments to declarations necessary to effect a merger or consolidation. *This section is intended to clarify existing law and applies to associations existing on the effective date of this act.*

Section 126. Subsection (2) of section 718.503, Florida Statutes, is amended to read:

718.503 Developer disclosure prior to sale; nondeveloper unit owner disclosure prior to sale; voidability.—

(2) NONDEVELOPER DISCLOSURE.—

(a) Each unit owner who is not a developer as defined by this chapter shall comply with the provisions of this subsection prior to the sale of his or her unit. Each prospective purchaser who has entered into a contract for the purchase of a condominium unit is entitled, at the seller's expense, to a current copy of the declaration of condominium, articles of incorporation of the association, bylaws, and rules of the association, ~~as well as a copy of the question and answer sheet provided for by s. 718.504~~ and a copy of the financial information required by s. 718.111.

(b) If a person licensed under part I of chapter 475 provides to or otherwise obtains for a prospective purchaser the documents described in this subsection, the person is not liable for any error or inaccuracy contained in the documents.

(c) Each contract entered into after July 1, 1992, for the resale of a residential unit shall contain in conspicuous type either:

1. A clause which states: THE BUYER HEREBY ACKNOWLEDGES THAT BUYER HAS BEEN PROVIDED A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION OF THE ASSOCIATION, BYLAWS, RULES OF THE ASSOCIATION, *AND* A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION ~~AND THE QUESTION AND ANSWER SHEET~~ MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, PRIOR TO EXECUTION OF THIS CONTRACT; or

2. A clause which states: THIS AGREEMENT IS VOIDABLE BY BUYER BY DELIVERING WRITTEN NOTICE OF THE BUYER'S INTENTION TO CANCEL WITHIN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE DATE OF EXECUTION OF THIS AGREEMENT BY THE BUYER AND RECEIPT BY BUYER OF A CURRENT COPY OF THE DECLARATION OF CONDOMINIUM, ARTICLES OF INCORPORATION, BYLAWS, ~~AND~~ RULES OF THE ASSOCIATION, *AND* A COPY OF THE MOST RECENT YEAR-END FINANCIAL INFORMATION ~~AND QUESTION AND ANSWER SHEET~~ IF SO REQUESTED IN WRITING. ANY PURPORTED WAIVER OF THESE VOIDABILITY RIGHTS SHALL BE OF NO EFFECT. BUYER MAY EXTEND THE TIME FOR CLOSING FOR A PERIOD OF NOT MORE THAN 3 DAYS, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, AFTER THE BUYER RECEIVES THE DECLARATION, ARTICLES OF INCORPORATION, BYLAWS, *AND* RULES, ~~AND QUESTION AND ANSWER SHEET~~ IF REQUESTED IN WRITING. BUYER'S RIGHT TO VOID THIS AGREEMENT SHALL TERMINATE AT CLOSING.

A contract that does not conform to the requirements of this paragraph is voidable at the option of the purchaser prior to closing.

Section 127. Subsection (15) of section 718.504, Florida Statutes, is amended to read:

718.504 Prospectus or offering circular.—Every developer of a residential condominium which contains more than 20 residential units, or which is part of a group of residential condominiums which will be served by property to be used in common by unit owners of more than 20 residential units, shall prepare a prospectus or offering circular and file it with the Division of Florida Land Sales, Condominiums, and Mobile Homes prior to entering into an enforceable contract of purchase and sale of any unit or lease of a unit for more than 5 years and shall furnish a copy of the prospectus or offering circular to each buyer. In addition to the prospectus or offering circular, each buyer shall be furnished a separate page entitled "Frequently Asked Questions and Answers," which shall be in accordance with a format approved by the division and a copy of the financial information required by s. 718.111. This page shall, in readable language, inform prospective purchasers regarding their voting rights and unit use restrictions, including restrictions on the leasing of a unit; shall indicate whether and in what amount the unit owners or the association is obligated to pay rent or land use fees for recreational or other commonly used facilities; shall contain a statement identifying that amount of assessment which, pursuant to the budget, would be levied upon each unit type, exclusive of any special assessments, and which shall further identify the basis upon which assessments are levied, whether monthly, quarterly, or otherwise; shall state and identify any court cases in which the association is currently a party of record in which the association may face liability in excess of $100,000; and which shall further state whether membership in a recreational facilities association is mandatory, and if so, shall identify the fees currently charged per unit type. The division shall by rule require such other disclosure as in its judgment will assist prospective purchasers. The prospectus or offering circular may include more than one condominium, although not all such units are being offered for sale as of the date of the prospectus or offering circular. The prospectus or offering circular must contain the following information:

(15) If *a* ~~the~~ condominium *created on or after July 1, 2000,* is or may become part of a multicondominium, the following information must be provided:

(a) A statement in conspicuous type in substantially the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following this statement, the location in

the prospectus or offering circular and its exhibits where the multicondominium aspects of the offering are described must be stated.

(b) A summary of the provisions in the declaration, articles of incorporation, and bylaws which establish and provide for the operation of the multicondominium, including a statement as to whether unit owners in the condominium will have the right to use recreational or other facilities located or planned to be located in other condominiums operated by the same association, and the manner of sharing the common expenses related to such facilities.

(c) A statement of the minimum and maximum number of condominiums, and the minimum and maximum number of units in each of those condominiums, which will or may be operated by the association, and the latest date by which the exact number will be finally determined.

(d) A statement as to whether any of the condominiums in the multicondominium may include units intended to be used for nonresidential purposes and the purpose or purposes permitted for such use.

(e) A general description of the location and approximate acreage of any land on which any additional condominiums to be operated by the association may be located.

Section 128. Except as otherwise expressly provided in this act, this act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, line 2 through page 6, line 2,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to the Department of Business and Professional Regulation; amending s. 20.165, F.S.; renaming the Division of Florida Land Sales, Condominiums, and Mobile Homes as the Division of Condominiums, Timeshare, and Mobile Homes; including reference to the Board of Barbering and Cosmetology; revising minimum requirements for the number of consumer members on professional licensing boards; repealing provisions relating to the transfer of board locations; amending ss. 326.001, 326.002, 326.003, 326.004, 326.006, F.S.; transferring the regulation of yacht and ship brokers and salespersons from the Division of Florida Land Sales, Condominiums, and Mobile Homes to the Division of Professions; revising provisions relating to criminal history checks and administrative and civil penalties; requiring that all funds collected pursuant to such regulation be deposited into the Professional Regulation Trust Fund; revising references; amending s. 399.061, F.S.; revising provisions relating to the inspection of elevators; amending s. 455.213, F.S.; providing for the content of licensure and renewal documents; providing for the electronic submission of information to the department; providing that all legal obligations must be met before the issuance or renewal of a license; amending s. 455.224, F.S.; authorizing any division of the department to issue citations in the enforcement of its regulatory provisions in accordance with the provisions established for such purposes for the regulation of professions; amending ss. 468.401, 468.402, 468.403, 468.404, 468.406, 468.407, 468.410, 468.412, 468.413, 468.414, 468.415, F.S.; providing for registration of talent agencies in lieu of licensure; conforming provisions; providing penalties; repealing ss. 468.405 and 468.408, F.S., relating to qualification for talent agency license and bonding requirements; amending s. 468.609, F.S.; authorizing direct supervision by building code administrators by telecommunications devices in certain localities and under specified circumstances; amending s. 468.627, F.S.; requiring the payment of costs for certain building code enforcement applicants who fail to appear for scheduled examinations, subject to waiver in case of hardship; amending s. 471.025, F.S.; allowing for more than one type of seal to be used by professional engineers; amending s. 472.003, F.S.; providing exemption from ch. 472, F.S., relating to land surveying and mapping, for certain subordinate employees; revising cross-references; amending s. 472.005, F.S.; revising and providing definitions; revising cross-references; amending s. 472.029, F.S.; revising provisions relating to access to lands of others for surveying or mapping purposes; providing applicability to subordinates; requiring certain notice; amending s. 810.12, F.S.; revising provisions relating to trespass, to conform; amending ss. 472.001, 472.011, 472.015, 472.021, 472.027, 472.031, 472.037, F.S.; revising cross-references; amending s. 476.034, F.S.; redefining the term "board"; amending s. 476.054, F.S.; creating the Board of Barbering and Cosmetology; providing certain compensation; requiring an oath and providing for a certificate of appointment; providing for officers, meetings, and quorum; amending s. 476.064, F.S.; conforming provisions; amending ss. 476.014, 476.074, 476.154, 476.194, 476.214, 476.234, F.S.; revising references; amending s. 477.013, F.S.; defining the term "board"; repealing s. 477.015, F.S., relating to the Board of Cosmetology; abolishing the Barbers' Board and the Board of Cosmetology; providing for appointment of all members of the Board of Barbering and Cosmetology to staggered terms; providing savings clauses for rules and legal actions; amending s. 477.019, F.S.; revising requirements related to continuing education providers and courses; eliminating a requirement for refresher courses and examinations for failure of cosmetology licensees to comply with continuing education requirements; amending s. 477.026, F.S.; providing authority for registration renewal and delinquent fees for hair braiders, hair wrappers, and body wrappers; amending s. 481.209, F.S.; revising requirements relating to education for licensure as an architect; amending s. 481.223, F.S.; providing for injunctive relief for certain violations relating to architecture and interior design; amending s. 489.107, F.S.; reducing the number of members on the Construction Industry Licensing Board; creating s. 489.1133, F.S.; providing for temporary certificates and registrations; amending s. 489.115, F.S.; eliminating references to divisions of the Construction Industry Licensing Board; amending s. 489.118, F.S.; revising grandfathering provisions for certification of registered contractors to qualify persons holding certain registered local specialty licenses; amending s. 489.13, F.S., to clarify the application of certain provisions relating to specialty licenses; repealing s. 489.507(6), F.S., to delete a duplicate provision relating to appointment of committees of the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board for the purpose of meeting jointly twice each year; requiring the Electrical Contractors' Licensing Board to develop a plan to reduce its annual operating budget by a specified amount and submit such plan to the department by a specified date; amending s. 489.511, F.S.; revising provisions relating to licensure as an electrical or alarm system contractor by endorsement; amending ss. 498.005, 498.019, 498.049, F.S.; reassigning the regulation of land sales from the Division of Florida Land Sales, Condominiums, and Mobile Homes to the Division of Real Estate; requiring all funds collected by the department pursuant to the regulation of land sales to be deposited in the Professional Regulation Trust Fund; amending s. 190.009, F.S.; conforming terminology; amending ss. 718.103, 718.105, 718.112, 718.1255, 718.501, 718.502, 718.504, 718.508, 718.509, 718.608, 719.103, 719.1255, 719.501, 719.502, 719.504, 719.508, 719.608, 721.05, 721.07, 721.08, 721.26, 721.28, 721.301, 721.50, 721.82, 721.84, 723.003, 723.006, 723.0065, 723.009, F.S.; renaming the Division of Florida Land Sales, Condominiums, and Mobile Homes as the Division of Condominiums, Timeshare, and Mobile Homes; renaming the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund as the Division of Condominiums, Timeshare, and Mobile Homes Trust Fund; conforming provisions; revising language with respect to condominium association bylaws; revising language with respect to the annual budget; providing for reserves under certain circumstances; providing and limiting arbitration of disputes by the division to those regarding elections and the recall of board members; deleting reference to voluntary mediation; providing for the resolution of certain other complaints at the local level; providing exemptions; providing for expedited handling of election disputes; requiring the continuation of arbitration of cases filed by a certain date; providing a contingent appropriation; providing division enforcement powers and duties; providing for injunction, restitution, and civil penalties; providing certain immunity; providing for use of certain documents as evidence; providing for certain notice; providing for intervention in suits; locating the executive offices of the division in Tallahassee; authorizing branch offices; providing for adoption and use of a seal; providing applicability to specified chapters of the Florida Statutes; amending s. 721.82, F.S.; redefining the term "registered agent"; amending s. 721.84, F.S.;

providing for appointment of a successor registered agent; amending ss. 73.073, 192.037, 213.053, 215.20, 380.0651, 455.116, 475.455, 509.512, 559.935, F.S.; conforming terminology; amending s. 468.452, F.S.; revising definitions; amending s. 468.453, F.S.; revising licensure requirements; providing for service of process on nonresident agents; providing for temporary licenses; deleting a bond requirement; amending s. 468.454, F.S.; revising contract requirements; providing for cancellation of contracts; amending s. 468.456, F.S.; providing for increased administrative fines; amending s. 468.45615, F.S.; providing additional criminal penalties for certain acts; amending s. 468.4562, F.S.; revising provisions relating to civil remedies available to colleges and universities for violations of athlete agent regulations; amending s. 468.4565, F.S.; revising business record requirements; repealing s. 468.4563, F.S., relating to authority to require continuing education by athlete agents; repealing s. 468.4564, relating to license display requirements; amending s. 702.09, F.S.; revising the definitions of the terms "mortgage" and "foreclosure proceedings"; amending s. 718.104, F.S., revising language with respect to declarations for the creation of a condominium; amending s. 718.106, F.S.; revising language with respect to appurtenances that pass with a condominium unit; amending s. 718.110, F.S.; revising language with respect to amendments to a declaration of condominium; amending s. 718.111, F.S.; revising language with respect to the association; amending s. 718.112, F.S.; revising language with respect to bylaws; amending s. 718.113, F.S.; revising language with respect to material alterations of common elements or association real property operated by a multicondominium association; amending s. 718.115, F.S.; revising language with respect to common expenses; amending s. 718.405, F.S.; revising language with respect to multicondominiums and multicondominium associations; amending s. 718.503, F.S., relating to disclosure requirements for the sale of certain condominiums; removing the requirement that question and answer sheets be part of the closing documents; amending s. 718.504, F.S.; revising language with respect to the prospectus or offering circular; providing effective dates.

Rep. Kyle moved the adoption of the amendment.

Representative(s) Kyle offered the following:

(Amendment Bar Code: 253395)

Amendment 1 to Amendment 9—On page 14, lines 26-28
remove from the amendment: all of said lines

and insert in lieu thereof: *the sole authority for determining the content of any documents to be submitted for initial licensure and licensure renewal. Such documents may contain information including, as appropriate*

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

REPRESENTATIVE MAYGARDEN IN THE CHAIR

Representative(s) Kyle offered the following:

(Amendment Bar Code: 650321)

Amendment 2 to Amendment 9 (with title amendment)—On page 44, line 30 of the amendment

insert:

Section 37. A new subsection (4) is added to section 475.01, Florida Statutes, to read:

475.01 Definitions.—

(4) A broker acting as a trustee or in a fiduciary capacity is subject to the provisions of this chapter.

And the title is amended as follows:

On page 182, line 26 of the amendment

before the word "amending" insert: amending s. 475.01, F.S.; clarifying that chapter 475 is applicable to brokers acting as trustees or fiduciaries;

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

Representative(s) Kyle offered the following:

(Amendment Bar Code: 652333)

Amendment 3 to Amendment 9 (with title amendment)—On page 59, line 30, through page 60, line 13
remove from the amendment: all of Section 59

And the title is amended as follows:

On page 184, line 6 through 9 of the amendment
remove: "amending s. 489.13, F.S., to clarify the application of certain provisions relating to specialty licenses;"

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

Representative(s) Kyle offered the following:

(Amendment Bar Code: 164101)

Amendment 4 to Amendment 9 (with title amendment)—On page 61, line 11, of the amendment

insert new section 63:

Section 63. Paragraph (f) is added to subsection (3) of section 489.537, Florida Statutes, to read:

489.537 Application of this part.—

(3) Nothing in this act limits the power of a municipality or county:

(f) To require that one electrical journeyman, who is a graduate of the Institute of Applied Technology in Construction Excellence or licensed pursuant to s. 489.5335, be present on an industrial or commercial new construction site with a facility of 50,000 gross square feet or more when electrical work in excess of 77 volts is being performed in order to supervise or perform such work, except as provided in s. 489.503.

And the title is amended as follows:

On page 184, line 21, after the semicolon, of the amendment

insert: amending s. 489.537, F.S.; revising the power of municipalities and counties with respect to regulating electrical journeymen;

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

Representative(s) Kyle offered the following:

(Amendment Bar Code: 892417)

Amendment 5 to Amendment 9—On page 64, line 29, through page 67, line 10,
remove from the amendment: all of said lines

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

Representative(s) Benson offered the following:

(Amendment Bar Code: 343339)

Amendment 6 to Amendment 9 (with title amendment)—On page 157, between lines 10 and 11, of the amendment

insert:

(7)(a) An individual who has submitted an application and holds a certificate, registration or license as an athlete agent in another state may submit a copy of the application and certificate, registration or license from the other state in lieu of submitting an application in the form prescribed pursuant to this section. The department shall accept the application and the certificate from the other state as an application for registration in this state if the application in the other state:

1. Was submitted in the other state within 6 months next preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;

2. Contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and

3. Was signed by the applicant under penalty of perjury.

(b) An applicant applying under this subsection must meet all other requirements for licensure as provided by this part.

And the title is amended as follows:

On page 186, line 16, after "requirement;", of the amendment

insert: providing for reciprocity;

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

The question recurred on the adoption of **Amendment 9**, as amended, which was adopted.

Recalled from Senate

On motion by Rep. Crow, the Senate was requested to return **CS/HB 293**.

The House returned to the consideration of **HB 1923**.

Representative(s) Kottkamp offered the following:

(Amendment Bar Code: 725401)

Amendment 10 (with title amendment)—On page 66, between lines 9 and 10, of the bill

insert:

Section 68. Paragraph (f) of subsection (2) of section 718.112, Florida Statutes, is amended to read:

718.112 Bylaws.—

(2) REQUIRED PROVISIONS.—The bylaws shall provide for the following and, if they do not do so, shall be deemed to include the following:

(f) Annual budget.—

1. The proposed annual budget of common expenses shall be detailed and shall show the amounts budgeted by accounts and expense classifications, including, if applicable, but not limited to, those expenses listed in s. 718.504(21). A multicondominium association shall adopt a separate budget of common expenses for each condominium the association operates and shall adopt a separate budget of common expenses for the association. In addition, if the association maintains limited common elements with the cost to be shared only by those entitled to use the limited common elements as provided for in s. 718.113(1), the budget or a schedule attached thereto shall show amounts budgeted therefor. If, after turnover of control of the association to the unit owners, any of the expenses listed in s. 718.504(21) are not applicable, they need not be listed.

2. In addition to annual operating expenses, the budget *may* ~~shall~~ include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but are not limited to, roof replacement, building painting, and pavement resurfacing, regardless of the amount of deferred maintenance expense or replacement cost, and for any other item for which the deferred maintenance expense or replacement cost exceeds $10,000. The amount to be reserved shall be computed by means of a formula which is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates or extension of the useful life of a reserve item caused by deferred maintenance. This subsection *applies* ~~does not apply~~ to an adopted budget in which the members of an association have determined, by a majority vote at a duly called meeting of the association, to provide *the* ~~no~~ reserves *as described in* ~~or less reserves than required by~~ this subsection. However, prior to turnover of control of an association by a developer to unit owners other than a developer pursuant to s. 718.301, the developer may vote to waive the reserves or reduce the funding of reserves for the first 2 fiscal years of the association's operation, beginning with the fiscal year in which the initial declaration is recorded, after which time reserves may be *required* ~~waived or reduced~~ only upon the vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association. ~~If a meeting of the unit owners has been called to determine whether to waive or reduce the funding of reserves, and no such result is achieved or a quorum is not attained, the reserves as included in the budget shall go into effect.~~ After the turnover, the developer may vote its voting interest to *provide for* ~~waive or reduce~~ the funding of reserves.

3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts, and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the association. Prior to turnover of control of an association by a developer to unit owners other than the developer pursuant to s. 718.301, the developer-controlled association shall not vote to use reserves for purposes other than that for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the association.

4. In a multicondominium association, the only voting interests which are eligible to vote on questions that involve waiving or reducing the funding of reserves, or using existing reserve funds for purposes other than purposes for which the reserves were intended, are the voting interests of the units subject to assessment to fund the reserves in question.

And the title is amended as follows:

On page 5, line 29,

after the semicolon insert: amending s. 718.112, F.S.; revising language with respect to condominium association bylaws; revising language with respect to the annual budget; providing for reserves under certain circumstances;

Rep. Kyle moved the adoption of the amendment. Subsequently, **Amendment 10** was withdrawn.

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

HB 1099—A bill to be entitled An act relating to the Florida Airport Authority Act; creating ss. 332.201, 332.202, 332.203, 332.204, 332.205, 332.206, 332.207, 332.208, 332.209, 332.210, and 332.211, F.S.; creating the Florida Airport Authority Act; providing definitions; providing that certain counties shall form an airport authority; providing that certain former military facilities redeveloped and operated as an airport shall be redeveloped and operated by an authority under the act, and providing for membership of the governing body of such authorities; providing for appointment of members of the governing body of an authority; providing for officers, employees, expenses, removal from office, and application of financial disclosure provisions; providing purposes and powers of an authority; providing restrictions on authority powers; providing for issuance of bonds; providing that the county may be appointed as an authority's agent for construction; providing for acquisition of lands and property; providing for cooperation with other units, boards, agencies, and individuals; providing a covenant of the state with respect to bond issuance and agreements with federal agencies; providing an exemption from taxation; providing for applicability; requiring members of the authority to file financial disclosure; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 623689)

Amendment 1—On page 3, line 15,
remove from the bill: *1.5*

and insert in lieu thereof: *2.1*

Rep. Diaz de la Portilla moved the adoption of the amendment, which was adopted.

Representative(s) Diaz de la Portilla offered the following:

(Amendment Bar Code: 404157)

Amendment 2—On page 3, line 15 through page 4, line 8,
remove from the bill: all of said lines

and insert in lieu thereof:

(1) Any county which has a population of more than 2.1 million people shall at the countywide election hold a referendum in which the electors shall decide whether to form an airport authority, which shall be an agency of the state, pursuant to this act.

(2) The governing body of the authority shall consist of seven voting members, two of whom shall be appointed by the Governor subject to confirmation by the Senate. Each member of the governing body must at all times during his or her term of office be a permanent resident of the county which he or she is appointed to represent.

(a) The two members of the governing body appointed by the Governor, subject to confirmation by the Senate, shall serve terms of 4 years. Such persons may not hold elective office during their terms of office.

(b) Two members shall be appointed by the County Ethics Commission.

(c) One member shall be appointed by the County Mayor.

(d) Two members shall be appointed by the County Commission.

Rep. Diaz de la Portilla moved the adoption of the amendment, which was adopted.

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

HB 1789—A bill to be entitled An act relating to enterprise zone designation; requiring designation of an enterprise zone in the City of Hialeah under certain circumstances notwithstanding certain limitations; providing requirements; providing an effective date.

—was read the second time by title.

The Committee on Economic Development & International Trade offered the following:

(Amendment Bar Code: 943119)

Amendment 1—On page 1, lines 15-16
remove from the bill: all of said lines

and insert in lieu thereof:

area within the municipality of the City of Hialeah

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

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

HB 561—A bill to be entitled An act relating to Volusia County; providing for codification of special laws regarding special districts pursuant to s. 189.429, F.S., relating to Daytona Beach Racing and Recreational Facilities District, an independent special district in Volusia County; providing legislative intent, and codifying and reenacting provisions of chapter 29588, Laws of Florida, chapter 29590, Laws of Florida, chapter 31343, Laws of Florida, chapter 63-2023, Laws of Florida, chapter 73-647, Laws of Florida, and chapter 80-494, Laws of Florida; providing a district charter; providing for the severability of provisions deemed invalid; providing for the repeal of prior special acts relating to the Daytona Beach Racing and Recreational Facilities District; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 235807)

Amendment 1—On page 21, lines 29 and 30,
remove from the bill: all of said lines

and insert in lieu thereof: *1953; chapter 31343, Laws of Florida, 1955; chapter 63-2023, Laws of*

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

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

HB 829—A bill to be entitled An act relating to Broward County; extending the corporate limits of the Town of Lauderdale-By-The-Sea; amending chapter 99-465, Laws of Florida; providing for an interlocal agreement between Broward County and the Town of Lauderdale-By-The-Sea; providing for the effective date of annexation; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 293163)

Amendment 1 (with title amendment)—On page 5, line 21, through page 6, line 9,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 3. *Notwithstanding the provisions of section 186.901, Florida Statutes, to the contrary, for the sole purpose of calculating the revenues attributable to utility taxes, utility franchise fees, or other franchise fees, the calculation of the total population census of the Town of Lauderdale by the Sea, beginning with the state's fiscal year 2001, shall include all of the residents of the Intracoastal Beach Area of unincorporated Broward County, added as a result of chapter 99-465, Laws of Florida.*

Section 4. *Notwithstanding any general law or special act to the contrary, Lauderdale by the Sea shall have full authority to collect all franchise fees and utility taxes currently being collected by Broward County from the unincorporated area known as Intracoastal Beach Area beginning on the effective date of the annexation, August 15, 2001.*

And the title is amended as follows:

On page 1, line 5, after the semicolon

insert: providing for calculation population figures; authorizing the collection of franchise fees and utility taxes;

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

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

HB 831—A bill to be entitled An act relating to the City of Pompano Beach, Broward County; amending chapter 2000-476, Laws of Florida; providing for an interlocal agreement which would include provisions to jointly fund program infrastructure improvements between the City of Pompano Beach and Broward County, provided the city is not limited in its ability to receive anticipated utility taxes, franchise fees, or other fees; providing that calculations of population census of the City of Pompano Beach begin with the fiscal year 2000 and include all new

residents added to the city as a result of chapter 2000-476, Laws of Florida; providing for retroactive application to September 15, 2000; providing an effective date.

—was read the second time by title.

Representative(s) Ritter offered the following:

(Amendment Bar Code: 473467)

Amendment 1—On page 2, lines 7-12,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 7. Notwithstanding the provisions of section 186.901, Florida Statutes, to the contrary, for the sole purpose of calculating the revenues attributable to utility taxes, utility franchise fees, or other franchise fees, the calculation of the total population census of the City of Pompano Beach, beginning with fiscal year 2000, shall include all of the new residents added to the city as a result of the enactment of this act.

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

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

HB 835—A bill to be entitled An act relating to Broward County, Florida; amending chapter 2000-475, Laws of Florida; providing for deannexation of certain lands from the Town of Davie; providing for annexation of certain lands into the Town of Southwest Ranches; providing for the transfer of all public roads and rights-of-way on the Broward County Road System lying within the corporate boundaries of the Town of Southwest Ranches as of June 6, 2000; excluding certain portions of Sheridan Street and Griffin Road from the transfer; providing for confirmation of corporate existence of the Town of Southwest Ranches on June 6, 2000; providing for retroactive application; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 837—A bill to be entitled An act relating to the Sunshine Drainage District, in Broward County, amending chapter 63-609, Laws of Florida, in order to provide for the creation of a board of supervisors separate from the provisions of ch. 298, F.S., to create a five-member board; providing for elections by electors residing within the district; providing for the appointment of a Coral Springs City Commissioner as a board member; providing for the establishment of regular and special board meetings; providing for a quorum; providing for severability of the provisions of the act; providing that the act shall take precedence over any conflicting law to the extent of such conflict; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 050343)

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

and insert in lieu thereof:

Section 1. Section 2 of chapter 63-609, Laws of Florida, is amended to read:

Section 2. Provisions of Chapter 298, Florida Statutes, Made Applicable. The Sunshine Drainage District, ~~a~~ *an independent special district and* public corporation of this state, created under Chapter 298, Florida Statutes, shall be governed by provisions of the general drainage laws of Florida applicable to drainage districts or sub-drainage districts which are embodied in Chapter 298, Florida Statutes, and all of the laws amendatory thereof, now existing or hereinafter enacted, so far as not inconsistent with this act or any hereinafter enacted, so far as not inconsistent with this act or any subsequent special acts relating to Sunshine Drainage District *except those portions of sections 298.11, 298.12, and 298.14, Florida Statutes, pertaining to how the members of the board of supervisors are elected and to board of supervisors meetings, which shall be as provided for herein. In lieu thereof, the following provisions shall apply to the district:*~~.~~

(1) The board of supervisors shall consist of five elected members. The five candidates receiving the highest number of votes cast at a special election conducted by the Supervisor of Elections shall be elected to the board. Elected members of the board of supervisors shall be residents of the district.

(2) Commencing upon the expiration of the terms of the existing board members, all subsequent board members shall meet the requirements provided for herein and shall be elected as provided for herein. Existing board members' terms shall be extended to November of the year in which their term expires. In November 2002, the two new board members shall be selected or elected as provided for herein. Board members to be elected shall be elected at an election conducted by the Supervisor of Elections on the first Tuesday in November of the year when the board member's term expires. The costs of such elections shall be paid for by the district.

(3) The board shall establish a regular meeting date each month and shall meet no less than one time each month. However, the board may decide by majority vote to take 1 month off from meetings each year for a vacation. Meetings of the board shall be held in a public place, and shall be held in accordance with the requirements of chapter 286, Florida Statutes. A majority of the members of the board of supervisors shall constitute a quorum. Special meetings of the board may be called at any time to receive reports of the board or for such other purposes as the board may determine upon 24 hours' notice to board members and to the public by posting at the district office at a public location set aside for notice purposes.

Section 2. *In case any one or more of the sections or provisions of this act or the application of such sections or provisions to any situation, circumstance, or person shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other sections or provisions of this act or the applications of such sections or provisions to any other situation, circumstance, or person, and it is intended that this law shall be construed and applied as if such section or provision had not been included herein for any unconstitutional application.*

Section 3. *In the event of a conflict between the provisions of this act and the provisions of any other act, the provisions of this act shall control to the extent of such conflict.*

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page ,
remove from bill: entire title

and insert in lieu thereof: A bill to be entitled An act relating to the Sunshine Drainage District, an independent special district in Broward County; amending chapter 63-609, Laws of Florida, in order to provide for the creation of a board of supervisors separate from the provisions of ch. 298, F.S., to create a five-member board; providing for elections by electors residing within the district; providing for the establishment of regular and special board meetings; providing for a quorum; providing for severability of the provisions of the act; providing that the act shall take precedence over any conflicting law to the extent of such conflict; providing an effective date.

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

Representative(s) Ritter offered the following:

(Amendment Bar Code: 614707)

Amendment 2 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *Pursuant to section 189.429, Florida Statutes, this act constitutes the codification of all special acts relating to the Sunshine Water Control District, an independent special district in Broward County, Florida. It is the intent of the Legislature in enacting this law to provide a single, comprehensive special act charter for the district, including all current legislative authority granted to the district by its legislative enactments.*

Section 2. *Chapter 63-609, Laws of Florida, relating to the Sunshine Water Control District, is codified, reenacted, amended, and repealed as herein provided.*

Section 3. The Charter for the Sunshine Water Control District is re-created and reenacted to read:

Section 1. Creation of the District, and Boundaries Ratified and Approved. The decree of the circuit court in and for the 15th judicial circuit, Broward County, Florida, entered in chancery No. 62-4596-F, on the 23rd day of January, 1963, creating and incorporating the Sunshine Water Control District as a public corporation of this state, and all subsequent proceedings taken in said circuit court concerning said district are ratified, confirmed and approved.

Section 2. Provisions of Chapter 298, Florida Statutes, Made Applicable. The Sunshine Water Control District, an independent special district and public corporation of this state, created under Chapter 298, Florida Statutes, shall be governed by provisions of the general drainage laws of Florida applicable to drainage districts or sub-drainage districts that are embodied in Chapter 298, Florida Statutes, and all of the laws amendatory thereof, now existing or hereinafter enacted, so far as not inconsistent with this charter or any subsequent special acts relating to Sunshine Water Control District, except those portions of Sections 298.11, 298.12, and 298.14, Florida Statutes, pertaining to how the members of the board of supervisors are elected and to board of supervisors meetings, which shall be as provided for herein. In lieu thereof, the following provisions shall apply to the district:

(1) The board of supervisors shall consist of five elected members. The five candidates receiving the highest number of votes cast at a special election conducted by the Supervisor of Elections shall be elected to the board. Elected members of the board of supervisors shall be residents of the district.

(2) Commencing upon the expiration of the terms of the existing board members, all subsequent board members shall meet the requirements provided for herein and shall be elected as provided for herein. Existing board members' terms shall be extended to November of the year in which their term expires. In November 2002, the two new board members shall be selected or elected as provided for herein. Board members to be elected shall be elected at an election conducted by the Supervisor of Elections on the first Tuesday in November of the year when the board member's term expires. The costs of such elections shall be paid for by the district.

(3) The board shall establish a regular meeting date each month and shall meet no less than one time each month. However, the board may decide by majority vote to take one month off from meetings each year for a vacation. Meetings of the board shall be held in a public place, and shall be held in accordance with the requirements of chapter 286, Florida Statutes. A majority of the members of the board of supervisors shall constitute a quorum. Special meetings of the board may be called at any time to receive reports of the board or for such other purposes as the board may determine upon 24 hours' notice to board members and to the public by posting at the district office at a public location set aside for notice purposes.

Section 3. Powers of the District. The Sunshine Water Control District shall have in addition to the powers provided for in said Chapter 298, Florida Statutes, the power and authority to construct, improve, pave and maintain roadways and roads necessary and convenient to provide access to and efficient development of areas made suitable and available for the cultivation, settlement, urban subdivision, homesites and other beneficial use and development as a result of the drainage and reclamation operations of the district, including any dedicated to public use within the boundaries of the district.

Section 4. Installment Taxes, Levied and Apportioned, and the Collection Thereof. Taxes shall be levied and apportioned as provided for in the general drainage laws of Florida, (Chapter 298, Florida Statutes, and amendments thereto), except that the provisions of Sections 298.37, 298.38, 298.39, 298.40, and 298.41, Florida Statutes, and amendments thereto, shall not be applicable to said district. In lieu thereof, the following provisions shall apply to said district.

The board of supervisors shall determine, order and levy the amount of the annual installments of the total taxes levied under Section 298.36, Florida Statutes, which shall become due and be collected during each year at the same time that county taxes are due and collected, which said annual installment and levy shall be evidenced to and certified by the said board, not later than July 1st of each year, to the property appraiser of Broward County, Florida. Said tax shall be extended by the property appraiser on the county tax roll and shall be collected by the tax collector in the same manner and time as county taxes, and the proceeds thereof paid to said district. Said tax shall be a lien until paid on the property against which assessed, and enforceable in like manner as county taxes.

Section 5. Maintenance Tax. The provisions of Section 299.54, Florida Statutes, and amendments thereto, shall not be applicable to said district. In lieu thereof, the following provisions shall apply to said district.

To maintain and preserve the improvements made pursuant to this charter and to repair and restore the same, when needed, and for the purpose of defraying the current expenses of the district, the board of supervisors may, upon the completion of said improvements, in whole or in part as may be certified to the said board by the chief engineer, levy annually a special assessment upon each tract or parcel of land within the district, to be known as a "maintenance tax." Said maintenance tax shall be apportioned upon the basis of the net assessments of benefits assessed as accruing for original construction, and shall be evidenced to and certified by said board not later than July 1st of each year, to the property appraiser of Broward County, Florida, and shall be extended by the property appraiser on the county tax roll and shall be collected by the tax collector in the same manner and time as county taxes and the proceeds therefrom paid to said district. Said tax shall be a lien until paid on the property against which assessed and enforceable in like manner as county taxes.

Section 6. Levy of Taxes on Fractional Acres. In levying and assessing all special assessments, each tract or parcel of land less than one acre in area shall be assessed as a full acre, and each tract or parcel of land more than one acre in area which contains a fraction of an acre shall be assessed at the nearest whole number of acres, a fraction of one-half or more to be assessed as a full acre.

Section 7. Enforcement of Taxes. The provisions of Sections 298.45 and 298.46, Florida Statutes, and amendments thereto, shall not be applicable to said district. In lieu thereof, the following shall apply to said district.

The collection and enforcement of all special assessments levied by said district shall be at the same time and in like manner as county taxes, and the provisions of the Florida Statutes relating to the sale of lands for unpaid and delinquent taxes, the issuance, sale and delivery of tax certificates for such unpaid and delinquent county taxes, the redemption thereof, the issuance to individuals of tax deeds based thereon, and all other procedure in connection therewith, shall be applicable to said district and the delinquent and unpaid special assessments of said district to the same extent as if said statutory provisions were expressly set forth in this charter. All special assessments shall be subject to the same discounts as county taxes.

Section 8. When Unpaid Taxes Delinquent: Penalty. All special assessments provided for in this charter shall be and become delinquent and bear penalties on the amount of said special assessments in the same manner as county taxes.

Section 9. Water a Common Enemy. It is hereby determined, declared and enacted that lands in the district in their natural condition are wet and subject to overflow and that the drainage, reclamation and protection of said lands available for agricultural, settlement, urban and subdivision purposes by drainage, reclamation and improvement, and the creation of said district with the powers vested in it by this charter, are in the interest of and conducive to public welfare, health and convenience. It is further declared that in said district, surface waters, including rainfall are a common enemy, and the said district and any individual or agency holding a permit to do so from said district, shall have the right to dike, dam and construct levees to protect the said district or any part thereof, or the property of said individual or agency against the same, and thereby divert the course and flow of such surface water and/or pump the water from within such dikes and levees.

Section 10. Unit Districts. The board of supervisors of Sunshine Water Control District is authorized in its discretion to drain and reclaim or more completely and intensively to drain and reclaim the lands in said district by designated areas or parts of said district to be called "units." The units into which said district may be so divided shall be given appropriate numbers or names by said board of supervisors, so that said units may be readily identified and distinguished. The board of supervisors shall have the power to fix and determine the location, area and boundaries of said lands to be included in each and all such units, the order of development thereof, and the method of carrying on the work in each unit. The unit system of drainage provided by this section may be conducted and all of the proceedings by this section and this charter authorized in respect to such unit or units may be carried on and conducted at the same time as or after the work of draining and reclaiming of the entire district has been or is being or shall be instituted or carried on under the provisions of this charter or under Chapter 298, Florida Statutes, or both. If the board of supervisors shall determine that it is advisable to conduct the work of draining and reclaiming the lands in the district by units, the board shall, by resolution, declare its purpose to conduct such work accordingly, and shall fix the number, location and boundaries of and description of lands within such unit or units and give them appropriate numbers or names. The entire district may also be designated as a unit for the proper allocation of such part of the plan of reclamation and drainage as benefits the entire district. As soon as practicable after the adoption and recording of such resolution said board of supervisors shall publish notice once a week for two consecutive weeks in a newspaper published in Broward County, Florida, briefly describing the units into which said district has been divided and the lands embraced in each unit, giving the name, number or other designation of such units, requiring all owners of lands in said district to show cause in writing before said board of supervisors at a time and place to be stated in such notice why such division of said district into such units should not be approved, and said system of development by units should not be adopted and given effect by said board, and why the proceedings and powers authorized by this section of this charter should not be had, taken and exercised. At the time and place stated in said notice, said board of supervisors shall hear all objections or causes of objection (all of which shall be in writing) of any landowner in said district to the matters mentioned and referred to in such notice, and if no objections are made, or if said objections, if made, shall be overruled by said board, then said board shall enter in its minutes its findings and an order confirming said resolutions, and may thereafter proceed with the development, drainage and reclamation of said district by units pursuant to such resolution and to the provisions of this charter. The board of supervisors may, as a result of any objections or of matters brought forth at the hearing, modify or amend such resolution in whole or in part, confirm said resolution after overruling all objections, or reject said resolution, and if confirmed or modified or amended, may proceed thereafter in accordance with said resolution as confirmed, modified or amended. The sustaining of such objections and the rescinding of such resolutions shall not exhaust the power of said board under this section; but, at any time not less than one year after the date of the hearing upon any such resolution, the board of supervisors may adopt other resolutions under this section and thereupon proceed on due notice in like manner as above. If said board of supervisors shall overrule or refuse to sustain any such objections in whole or in part made by any landowner in the district, or if any such landowner shall deem himself or herself aggrieved by any action of the board of supervisors in respect to any objection so filed, such landowner may, within twenty days after the ruling of said board, invoke the jurisdiction of a court having jurisdiction over the merits of the claim. When said resolutions creating said unit system shall be confirmed by the board of supervisors (or by a court of competent jurisdiction, if such proposed action shall be challenged by a landowner by the judicial proceedings hereinabove authorized), said board of supervisors may adopt a plan or plans of reclamation for and in respect to any or all such units, and to have the benefits and damages resulting therefrom assessed and apportioned by commissioners appointed by the circuit court, and the report of the said commissioners considered and confirmed, all in like manner as is provided by law in regard to plans of reclamation for and assessments for benefits and damages of the entire district. With respect to the plan of reclamation, notices, appointment of commissioners to assess benefits and damages, report of commissioners and notice and confirmation thereof, the levy of assessments and taxes, including maintenance taxes, and the issuance of bonds and all other proceedings as to each and all of such units, said board shall follow and comply with the same procedure as is provided by law with respect to the entire district; and said board of supervisors shall have the same powers in respect to each and all of such units as is vested in them with respect to the entire district. All the provisions of this charter shall apply to the drainage, reclamation and improvement of each, any and all of such units, and the enumeration of or reference to specific powers or duties of the supervisors or any other officers or other matters in this charter as hereinabove set forth shall not limit or restrict the application of any and all of the proceedings and powers herein to the drainage and reclamation of such units as fully and completely as if such unit or units were specifically and expressly named in every section and clause of this charter where the entire district is mentioned or referred to. All assessments, levies, taxes, bonds and other obligations made, levied, assessed or issued for or in respect to any such unit or units shall be a lien and charge solely and only upon the lands in such unit or units, respectively, for the benefit of which the same shall be levied, made or issued, and not upon the remaining units or lands in said district. The board of supervisors may at any time amend its said resolutions by changing the location and description of lands in any such unit or units; and provided, further, that if the location of or description of lands located in any such unit or units is so changed, notice of such change shall be published as hereinabove required in this section for notice of the formation or organization of such unit or units, and all proceedings shall be had and done in that regard as are provided in this section for the original creation of such unit or units; provided, however, that no lands against which benefits shall have been assessed may be detached from any such unit after the confirmation of the commissioners' report of benefits in such unit or units or the issuance of bonds or other obligations which are payable from taxes or assessments for benefits levied upon the lands within such unit or units.

Provided, however, that if, after the confirmation of the commissioners' report of benefits in such unit or units, or the issuance of bonds or other obligations which are payable from taxes or assessments for benefits levied upon lands within such unit or units, the board of supervisors finds the plan of reclamation for any such unit or units insufficient or inadequate for efficient development, the plan of reclamation may be amended or changed as provided in this section, by changing the location and description of lands in any such unit or units, by detaching lands therefrom or by adding land thereto, upon the approval of 51 percent of the landowners, according to acreage, in any such unit, either evidenced in writing or voting at a meeting of the landowners duly called pursuant to notice required under Sections 298.11 and 298.12, Florida Statutes (for the election of supervisors), at which 51 percent of the landowners shall vote in favor thereof and of all the holders of bonds issued in respect to any such unit, and provided that in such event all assessments, levies, taxes, bonds and other obligations made, levied, assessed, incurred or issued for or in respect to any such unit or units may be allocated and apportioned to the amended unit or units in proportion to the benefits assessed by the commissioners' report for the amended plan of reclamation and said report shall specifically provide for such allocation and apportionment. The landowners and all of the bondholders shall file their approval of or objections to such amended plan of reclamation within the time provided in Section 298.27, Florida Statutes, and shall

file their approval of or objections to the amendment of such unit as provided in this section.

No lands shall be detached from any unit after the issuance of bonds or other obligations for such unit except upon the consent of all the holders of such bonds or other obligations. In the event of the change of the boundaries of any unit as provided herein and the allocation and apportionment to the amended unit or units of assessments, levies, taxes, bonds and other obligations in proportion to the benefits assessed by the commissioners' report for the amended plan of reclamation, the holder of bonds or other obligations heretofore issued for the original unit who consent to such allocations and apportionment shall be entitled to all rights and remedies against any lands added to the amended unit or units as fully and to the same extent as if such added lands had formed and constituted a part of the original unit or units at the time of the original issuance of such bonds or other obligations, and regardless of whether the holders of such bonds or other obligations are the original holders thereof or the holders from time to time hereafter, and the rights and remedies of such holders against the lands in the amended unit or units, including any lands added thereto, under such allocation and apportionment, shall constitute vested and irrevocable rights and remedies to the holders from time to time of such bonds or other obligations as fully and to the same extent as if such bonds or other obligations had been originally issued to finance the improvements in such amended unit or units under such amended plan of reclamation. Conversely, in the event of the change of the boundaries of any unit wherein lands are detached therefrom with the consent of all the holders of such bonds or other obligations, then and in that event said lands so detached shall be relieved and released from any further liability for the assessment, levy or payment of any taxes for the purpose of paying the principal or interest on any bonds originally issued for the original unit from which said lands were detached.

Section 11. Future Changes in Plan of Reclamation and Drainage of District or Individual Units. After the initial adoption by the board of supervisors of said plan or plans of reclamation and drainage of the entire district or units thereof, said plan or plans may be modified from time to time in the future, in whole or in part, in accordance with the changing character from time to time of the use of the lands in said district, in the manner hereinabove provided for; provided, however, that said plan or plans of reclamation or drainage shall not be changed or modified more often than once every five years in any manner as will increase the assessments to be assessed against the land or the taxes levied against the land or modify the security of the bonds outstanding; provided, however, that this shall not affect technical changes or modifications of said plan or plans of reclamation or drainage approved by the district's engineers as will not affect the assessed benefits, levy of taxes or security of the bondholders, as changes or modifications of this type may be made at any time; provided, further that said limitation of five years shall not apply to any plan or plans of reclamation or drainage of the district or any unit thereof established under the provisions of this charter, if the same is adopted by resolution of the board of supervisors of the district, within two years of the time when this charter becomes a law.

Section 12. Application to Existing District, Boundaries, Plan of Reclamation and Drainage, etc. The powers hereinabove vested in the board of supervisors of Sunshine Water Control District shall apply to the presently existing district, the presently existing boundaries thereof or as the boundaries may be extended as authorized by law, and the present plan of reclamation and drainage together with any assessment of benefits which may be approved by the circuit court of Broward County, Florida, and the boundaries of said district and the plan of reclamation and drainage and the assessment and levying of taxes for carrying out said plan of reclamation and drainage and for the maintenance and operation thereof, may be changed in whole or in part as units, or, with reference to the entire district, in accordance with the provisions of this charter.

Section 4. *Severability. In case any one or more of the sections or provisions of this act or the application of such sections or provisions to any situations, circumstances or person shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other sections or provisions of this act or the applications of such sections or provisions to any other situation, circumstances or person, and it is intended that this law shall be construed and applied as if such section or provision had not been included herein for any unconstitutional application.*

Section 5. *Effect of Conflict. In the event of a conflict between the provisions of this act and the provisions of any other act, the provisions of this act shall control to the extent of such conflict.*

Section 6. *Notice of Intention. It is found and determined that a notice of intention to apply for this legislation was given in the time, form and manner required by the constitution and by law. Said notice is found to be sufficient and is hereby validated and approved.*

Section 7. *Chapter 63-609, Laws of Florida, is repealed.*

Section 8. This act shall take effect upon becoming a law.

And the title is amended as follows:
remove from the title of the bill: entire title

and insert in lieu thereof: A bill to be entitled An act relating to Broward County; providing for codification of special laws regarding special districts pursuant to section 189.429, F.S., relating to the Sunshine Water Control District; a special district in Broward County; providing legislative intent; amending, repealing, codifying, and reenacting the special act related to the district; declaring the District to be an independent special district; providing a district charter; providing an effective date.

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

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

HB 843—A bill to be entitled An act relating to the City of Coral Springs, Broward County; extending and enlarging the corporate limits of the City of Coral Springs to include specified unincorporated lands within said corporate limits; providing for land use and zoning designations; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 813311)

Amendment 1 (with title amendment)—On page 3, lines 10-25,
remove from the bill: all of said lines

and insert in lieu thereof: *Pre-Annexation Agreement referenced in section 3.*

Section 5. *Upon annexation into a municipality, the following shall govern the areas described in Section 1: for any use, building, or structure that is legally in existence at the time the area described in Section 1. becomes a part of the municipality, such use shall not be made a prohibited use by the municipality, on the property of said use, for as long as the use shall continue and is not voluntarily abandoned.*

Section 6. *Subsequent to the effective date of this act, no change in land use designation or zoning shall be effective within the limits of the lands subject to annexation herein until the area described in Section 1 has been annexed into the municipality, and no annexation by any municipality shall occur during the period between the effective date of this act and the effective date of the annexation.*

And the title is amended as follows:

On page 1, lines 6 and 7,
remove from the title of the bill: all of said lines

and insert in lieu thereof: within said corporate limits; providing that current land use designations and zonings may not be changed under specified circumstances; prohibiting the annexation of the specified lands prior to the effective date of the annexation; providing an

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

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

HB 869—A bill to be entitled An act relating to Broward County; authorizing local governments in the county to grant an exception from the concurrency requirement for transportation facilities under s. 163.3180, F.S., for certain developments; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 441377)

Amendment 1—On page 1, lines 14-15,
remove from the bill: all of said lines

and insert in lieu thereof: *requirement for transportation facilities pursuant to the provisions of section 163.3180(5)(d), Florida Statutes, if the proposed development is otherwise consistent*

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

The Committee on Transportation offered the following:

(Amendment Bar Code: 380995)

Amendment 2—On page 1,line 21 of the bill, after the period

insert: *The local government also must have considered the proposed development's impacts on the Florida Intrastate Highway System, as defined in s. 338.001.*

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

The Committee on Transportation offered the following:

(Amendment Bar Code: 872781)

Amendment 3—On page 1, line 17,
remove from the bill: the word *"or"*

and insert in lieu thereof: *"and"*

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

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

HB 899—A bill to be entitled An act relating to the City of Tampa, Hillsborough County, and particularly to the City Pension Fund for Firefighters and Police Officers in the City of Tampa; authorizing the City of Tampa to enter into a supplemental contract with certain firefighters and police officers to provide for an increase in the accrual of benefits from 2.5 percent to 2.75 percent for each year of service; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 784843)

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

and insert in lieu thereof:

Section 1. The City of Tampa is authorized and empowered to enter into a supplemental contract with each and every firefighter or police officer who was an active or contributing member of the City Pension Fund for Firefighters and Police Officers in the City of Tampa on or after the date this act becomes a law, or who may hereafter enter into a pension contract with the City, amending Section 2(D), Section 6(3), and Section 27 of the City of Tampa Firefighters and Police Officers Pension Contract as prescribed by Section 28-17 of the City of Tampa Code {Ordinance No. 4746-A, enacted September 30, 1969}, as amended by section 28-19 of the City of Tampa Code {Ordinance No. 6038-A, enacted September 17, 1974} pursuant to chapter 74-613, Laws of Florida, as further amended by chapter 92-231, Laws of Florida, chapter 94-463, Laws of Florida, chapter 98-515, Laws of Florida, and chapter 2000-485, Laws of Florida, to read:

Section 2(D) *Except as provided by subparagraph 2(B)(4) and subparagraph 27(B)(2),* the employees covered under this contract shall contribute at the rates set forth below, based upon all of their earnings during each twelve month period commencing on October 1, which contributions shall be deducted from said earnings before the same are paid and shall be promptly deposited in the Fund:

Earnings in Twelve-Month Period *Commencing October 1*	Employee Contribution *Rate*
First $4,000	6%
Next 1,000	7%
Next 1,000	8%
Next 1,000	9%
Next 1,000	10%
Next 1,000	11%
Next 1,000	12%
Next 2,500	15%
Excess over $12,500	25%

If the City's rate of contribution, pursuant to Section 2(B), should exceed forty per centum (40%), the employee contribution scale above shall be increased in the ratio of the City's contribution rate, pursuant to Section 2(B), to 40 percent.

Commencing for earnings paid the first pay date after January 1, 2002, all mandatory employee contributions to the Fund shall be picked-up and paid by the City. Such contributions, although designated as employee contributions, will be paid by the City in lieu of contributions by the employee. The contributions so assumed shall be treated as tax-deferred employer "pick-up" contributions pursuant to Section 414(h) of the Internal Revenue Code. Members shall not have the option of receiving the contributed amounts directly instead of having such contributions paid by the City to the Fund.

Section 6(3) That the portfolio, representing the principal or surplus funds of the Pension Fund may be invested in the following securities or other property, real or personal, including, but without being limited to, bonds, notes, or other evidences of indebtedness issued, or assumed or guaranteed in whole or in part by the United States or any of its agencies or instrumentalities; or by ~~the Dominion of Canada or any of its provinces, cities or municipal corporations;~~ *any foreign government or political subdivisions or agencies thereof*; or by the State of Florida, or by any county, city, school district, municipal corporation, or other political subdivision of the State of Florida, both general and revenue obligations; in mortgages and other interests in realty; or in such corporation bonds, notes, or other evidences of indebtedness, and corporation stocks including common and preferred stocks, of any corporation created or existing under the laws of the United States or any of the states of the United States, or ~~of the Dominion of Canada,~~ *of any foreign government or political subdivisions or agencies thereof*, provided that in making each and all of such investments the Board of Trustees shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own funds, not in regard to speculation but in regard to the permanent disposition of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as probable safety of their capital; provided, however, that not more than sixty-five per centum (65%) of said fund, based on the total book value of all investments held, shall be invested at any given time in common stocks, and that not more than five per centum (5%) of said fund shall be invested at any given time in the preferred and common, or either, stock of any one corporation and its affiliates *and that not*

more than ten per centum (10%) of said fund, based on the total book value of all investments held, shall be invested at any given time in the bonds, notes or other evidences of indebtedness of any foreign government or political subdivisions or agencies thereof or corporations created or existing under the laws thereof.

Section 27. *13TH CHECK PROGRAM.*—Notwithstanding any other provisions of this contract, and subject to the provisions of this section, the 13th Check Program is a program which authorizes the Board of Trustees to establish and make a supplemental pension distribution ~~commencing in January 1999, and in January of each year thereafter,~~ pursuant to the following terms and conditions:

(A) *Eligibility.*—The following persons shall be eligible for the supplemental pension distribution payable *no later than June 30, 2002, and each June 30 annually thereafter:* ~~in January of each year:~~

(1) All retired members who have terminated employment as a firefighter or police officer in the fire department or police department, respectively, who, on the October 1 immediately preceding the *June 30 by* ~~January in~~ which distributions are to be made, were eligible to receive pension benefits for at least 1 year. For purposes of this section only, a DROP participant shall be considered a retired member and, during the DROP calculation period, a DROP participant shall be eligible for the 13th check benefit, provided that, on the October 1 immediately preceding the *June 30 by* ~~January in~~ which distributions are to be made, such DROP participant had participated in the DROP for at least 1 year;

(2) All qualifying spouses who were eligible to receive pension benefits pursuant to Section 8 or Section 9 for at least 1 year on the October 1 immediately preceding the *June 30 by* ~~January in~~ which distributions are to be made; and

(3) All qualifying surviving spouses, who on the October 1 immediately preceding the *June 30 by* ~~January in~~ which distributions are to be made, were eligible for receipt of Section 8 or Section 9 benefits but who have not received such pension benefits for at least 1 year provided that the deceased member was eligible for receipt of pension benefits on October 1 of the prior year.

(B) *13th Check Account.*—

(1) There is hereby created a 13th check account within the Fund, which shall consist of those employees' contributions set forth in subparagraph 27(B)(2) ~~and the City's contributions set forth in subparagraph 27(B)(3)~~ in excess of those contributions otherwise required by Section 2 for the normal annual cost of benefits, other than benefits arising from post retirement adjustments made pursuant to Section 23 and other than benefits arising from the 13th Check Program, plus any interest earnings thereon *up to and including September 30, 2001. Effective for earnings paid on the first pay date after October 1, 2001, employee contributions to the 13th Check Account shall cease, and the 13th Check Account shall be funded by investment returns in excess of 10% (limited to 3%) on the base plan liabilities for persons eligible for the 13th check. For purposes of this Section, the "base plan" shall mean those assets of the Fund excluding the Post Retirement Adjustment Account, DROP account assets, and the 13th check account. The amount available for the 13th check shall be calculated as of fiscal year end commencing September 30, 2001 for the fiscal year ending September 30, 2001 for payment no later than June 30, 2002, and each June 30 annually thereafter; provided, however, the calculation of the amount payable no later than June 30, 2002, shall include employee contributions to the 13th check account for earnings paid through the last pay date immediately prior to October 1, 2001. The City shall not be required to make contributions toward the 13th check program.*

(2) Notwithstanding any other provision of this contract, commencing October 1, 1998, employees covered under this contract shall continue to contribute pursuant to Section 2 at the rates required for employees to fund the normal annual cost of benefits, other than benefits arising from post retirement adjustments made pursuant to Section 23 and other than benefits arising from the 13th check program made pursuant to this section, plus an additional 100 percent of 9.874 percent of the full scale contribution rate (FSCR) set forth in Section 2(D) to the 13th check program. *Employee contributions to the 13th check shall cease effective for earnings paid on the last pay date immediately prior to October 1, 2001.*

~~(3) Notwithstanding any other provision of this contract, the City shall contribute:~~

~~(a) An amount required to fund the normal annual cost of benefits, other than benefits arising from post-retirement adjustments made pursuant to Section 23 and other than benefits arising from the 13th check program made pursuant to this section, plus;~~

~~(b) Commencing October 1, 2001, to the 13th check program, 134 percent of 9.874 percent of the full scale contribution rate (FSCR) for employees set forth in Section 2(D); provided, however, if the sum of the City's contribution for the normal annual cost of benefits plus the 134 percent of 9.874 percent of the full scale contribution rate (FSCR) is greater than 134 percent of 28.789 percent of the full scale contribution rate (FSCR), then the City's contribution to the 13th check program shall be the positive difference between 134 percent of 28.789 percent of the full scale contribution rate (FSCR) and the amount set forth in subparagraph 27(B)(3)(a) [134 percent of the normal annual cost of benefits of the full scale contribution rate (FSCR) for employees set forth in Section 2(D)], but no less than 134 percent of 3 percent of the full scale contribution rate (FSCR).~~

~~(4) Notwithstanding any other provision of this contract, the City's contributions to the 13th check program shall not require the City to make additional contributions to the 13th check program to reimburse the 13th check account for the contributions the City would have otherwise made to the 13th check program had it contributed thereto for the period of October 1, 1998, through September 30, 2001.~~

(C) *Amount of the 13th Check.*—The amount of the 13th check shall be determined as follows:

(1)(a) The amount of the 13th check shall be the same for all retired members, regardless of years of service, age, years retired, or monthly installment.

(b) All eligible surviving spouses shall be entitled to 50 percent of what the eligible retired member would have received but for death.

(c) If a retired member is eligible on October 1 but dies before payment of the 13th check *by* ~~in~~ the following *June 30* ~~January~~, the retired member's spouse shall receive the full amount of the payment, and if there is no surviving spouse, the retired member's designated beneficiary or beneficiaries, or if none, the retired member's estate shall receive the payment.

(2) The Board of Trustees shall establish by rule adopted no later than *May 31, 2002, and each May 31 thereafter,* ~~December 15, 1998,~~ the amount of the 13th check *funded pursuant to Section 27(B)(1)*, subject to the following:

(a) The amount of the 13th check, or a method for calculating the amount of the 13th check in a manner that is definitely determinable and in accordance with the requirements of the Internal Revenue Code applicable to a qualified governmental plan; and

(b) Certification by the Fund's actuary that the amount of the payment will be funded on a sound actuarial basis as required by Section 14, Article X of the State Constitution.

(D) *Conflict of Laws.*—To the extent that any provision of this section is in conflict with sections 112.60-112.67, Florida Statutes, or those provisions of chapters 175 and 185, Florida Statutes, that apply to local law plans established by municipal ordinance or special act, or provisions of Florida Statutes made applicable to pension funds established by special act, or to the extent that any provision of this section would result in the loss of tax exempt status of the Pension Fund, the Board of Trustees is hereby delegated the authority to adopt by rules changes to this section in order to comply with said laws, which shall have the force of law and shall be considered part of this pension contract.

(E) *Administration of Program.*—The Board of Trustees shall make such rules as are necessary for the effective and efficient administration of this section, provided that such rules are not inconsistent with the terms of any collective bargaining agreement entered into by the City and the certified bargaining agents for firefighters and police officers concerning the 13th Check Program. Notwithstanding any other provision of this section to the contrary, any provision of this section shall be construed and administered in such manner that such program will qualify as a qualified governmental pension plan under existing or hereafter enacted provisions of the Internal Revenue Code of the United States, and the Board of Trustees may adopt any rule to accomplish the purpose of this section as is necessary to retain tax qualification, which rules shall have the force of law and shall be considered part of this pension contract.

Section 2. This act is only an enabling act, and the execution by the City of Tampa of the aforesaid supplemental contract and entitlement to the pension benefits referred to in this act for all firefighters and police officers, regardless of whether or not in the respective certified bargaining unit for firefighters or police officers, is contingent upon contractual agreement through the collective bargaining process between the City of Tampa and each of the respective certified bargaining agents for firefighters and police officers.

Section 3. The City of Tampa Firefighters and Police Officers Pension Contract as prescribed by Section 28-17 of the City of Tampa Code {Ordinance No. 4746-A, enacted September 30, 1969}, as amended by Section 28-19 of the City of Tampa Code {Ordinance No. 6038-A, enacted September 17, 1974}, pursuant to chapter 74-613, Laws of Florida; as further amended by Ordinance No. 89-314, enacted December 21, 1989, and approved, ratified, validated, and confirmed by chapter 90-391, Laws of Florida; and as further amended by chapter 92-231, Laws of Florida, chapter 94-463, Laws of Florida, chapter 98-515, Laws of Florida, and chapter 2000-485, Laws of Florida, is in all other respects approved, ratified, validated, and confirmed.

Section 4. The benefits provided for herein by Section 1 and the changes to the pension contract provided for herein by Section 1 for active and contributing members on the date this act becomes a law shall be made available in one supplemental pension contract, and a member shall not be permitted to select some of said benefits and reject others of said benefits. Any active or contributing member on the date this act becomes a law who fails to sign said supplemental pension contract before October 1, 2001, shall be forever barred from receiving said benefits and shall not be required to make any contributions required as a result of such benefits. However, any person who becomes a member of the City Pension Fund for Firefighters and Police Officers in the City of Tampa on or after the date this act becomes a law, shall be required as a condition of membership into said pension fund to sign a pension contract which includes the provisions of Section 1, and shall be required to make the contributions required as a result of such benefits.

Section 5. Notwithstanding the provisions of Section 1, the distribution of the 13th check commencing no later than June 30, 2002, shall be payable within 30 days of receipt of a favorable determination letter from the Internal Revenue Service that the revised 13th check program does not adversely impact the tax qualification of the plan, but no earlier than June 30, 2002.

Section 6. If the City of Tampa enters into a supplemental pension contract as provided in Section 1 of this act, each retired firefighter and retired police officer who is living on the date this act becomes a law, and each member who retires or dies after this act becomes a law, but before October 1, 2001, and each qualifying surviving spouse, who is living on the date this act becomes a law, is entitled to receive the same benefits from the 13th check account upon the same basis as if the member's contract had been supplemented in the manner provided by Section 1 of this act before the member's separation from service; provided however said retired firefighter, retired police officer and eligible surviving spouse as a condition of participation in the 13th check program shall be subject to the provisions of Section 6(3) and Section 24 of the pension contract.

Section 7. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page ,
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to the City of Tampa, Hillsborough County, and particularly to the City Pension Fund for Firefighters and Police Officers in the City of Tampa; authorizing the City of Tampa to enter into a supplemental contract with certain firefighters and police officers to provide for an employer pick-up provision so that employee pension contributions can be made on a pre-tax basis; providing for additional authorized investments; restructuring the 13th Check Program; providing an effective date.

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

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

Bills and Joint Resolutions on Second Reading

On motion by Rep. Ritter, consideration of **HB 915** was temporarily postponed under Rule 11.10.

Continuation of Special Orders

Continuation of Special Order Calendar

HB 923—A bill to be entitled An act relating to Bayshore Gardens Park and Recreation District, Manatee County; codifying, reenacting, amending, and repealing special acts relating to the district; providing legislative intent; providing district status and boundaries; providing for applicability of chapters 418 and 189, F.S., and other general laws; providing a district charter; providing for liberal construction; providing a saving clause in the event any provision of the act is deemed invalid; providing for severability; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 292397)

Amendment 1—On page 2, line 2,
remove from the bill: said line

and insert in lieu thereof: *recreation district and a political subdivision of the State of*

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

Representative(s) Bennett offered the following:

(Amendment Bar Code: 573771)

Amendment 2—On page 10, line 19,
remove from the bill:
exceeds $125,000, including all obligations proposed to be

and insert in lieu thereof:
exceeds $25,000, including all obligations proposed to be

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

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

HB 933—A bill to be entitled An act relating to the General Pension and Retirement Fund of the City of Pensacola, Escambia County; amending chapter 99-474, Laws of Florida, as amended by chapter 2000-470, Laws of Florida; converting said act as amended to an ordinance of the City of Pensacola; revising definitions; revising provisions relating to designation of employee contributions; revising provisions relating to refund of contributions with less than 10 years of credited service;

revising provisions relating to disability injury or illness in line of duty and for disability injury or illness not in the line of duty; revising provisions relating to other benefit provisions; providing for protection of benefits from legal process; revising provisions for investment of funds; providing for repeal of conflicting laws; providing an effective date.

—was read the second time by title.

Representative(s) Miller offered the following:

(Amendment Bar Code: 135443)

Amendment 1 (with title amendment)—On page 8, line 29 through page 9, line 12,
remove from the bill: all of said lines

And the title is amended as follows:

On page 1, lines 17 & 18,
remove from the title of the bill: all of said lines

and insert in lieu thereof: provisions; revising

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

Representative(s) Miller offered the following:

(Amendment Bar Code: 212947)

Amendment 2—On page 11, lines 25-27,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 9. *Chapter 99-474, Laws of Florida, as amended by chapter 2000-470, Laws of Florida, is converted to an ordinance by the City of Pensacola on the*

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

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

HB 935—A bill to be entitled An act relating to the Civil Service System of the City of Pensacola, Escambia County, Florida; converting chapter 84-510, Laws of Florida, as amended by chapters 88-537, 86-447, and 90-473, Laws of Florida, into an ordinance of the City of Pensacola; providing an effective date.

—was read the second time by title and, under Rule 10.13(b), referred to the Engrossing Clerk.

HB 1849—A bill to be entitled An act relating to the Manatee County Mosquito Control District; codifying, reenacting, amending, and repealing special acts relating to the district; providing a charter; providing for formation as an independent special district; providing boundaries of the district; providing for the election of commissioners and operation of the district in accordance with ch. 388, F.S.; providing for district powers, functions, and duties; providing for construction and effect; providing for an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 735009)

Amendment 1—On page 3 line 4,
remove from the bill: all of said line

and insert in lieu thereof:

Section 3. Establishment.—The district, an independent special district, is established

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

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

THE SPEAKER IN THE CHAIR

HB 607—A bill to be entitled An act relating to Palm Beach County; providing for the relief of Kharmilia Ferguson, a minor, and for the relief of Angela Jones and Raymond Ferguson, individually and as the natural parents and guardians of Kharmilia Ferguson; authorizing and directing the Palm Beach County Sheriff's Office to compensate them for injuries they suffered as a result of the negligence of an employee of the sheriff's office; providing for reversion of funds; providing for reimbursement of all unreimbursed medical payments made by Medicaid up to the date that this act becomes a law; providing an effective date.

—was read the second time by title.

The Committee on Claims offered the following:

(Amendment Bar Code: 731485)

Amendment 1—On page 1 line 30,
remove from the bill: said line

and insert in lieu thereof: requiring full time attendant care until her death on January 2, 2001, and

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

The Committee on Claims offered the following:

(Amendment Bar Code: 582203)

Amendment 2—On page 2, lines 4 and 5,
remove from the bill: said lines

and insert in lieu thereof: Ferguson, for the loss of their daughter's

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

The Committee on Claims offered the following:

(Amendment Bar Code: 902505)

Amendment 3 (with title amendment)—On page 2, line 24 through page 3, line 23,
remove from the bill: said lines

and insert in lieu thereof:

Section 2. *The Palm Beach County Sheriff's Office is authorized and directed to draw a warrant in the sum of $1,800,000, less amounts payable pursuant to section 3, payable to Angela Jones and Raymond Ferguson individually and as the personal representatives of the estate of Kharmilia Ferguson, as compensation for injuries and damages sustained by Kharmilia Ferguson, Angela Jones and Raymond Ferguson. The claimants shall pay to the estate of Kharmilia Ferguson an amount sufficient to cover any additional liens and all expenses of the estate and the remaining funds shall be distributed in equal amounts to Mr. Ferguson and Ms. Jones.*

Section 3. *The governmental entity responsible for payment of the warrant shall pay to the Florida Agency for Health Care Administration the amount due under section 409.910, Florida Statutes, prior to disbursing any funds to the claimant. The amount due the agency shall be equal to all unreimbursed medical payments paid by Medicaid on behalf of Ms. Ferguson up to the date upon which this act becomes a law.*

And the title is amended as follows:

On page 1, lines 3 through 15,
remove from the title of the bill: said lines

and insert in lieu thereof: for the relief of injuries of Kharmilia Ferguson, and Angela Jones and Raymond Ferguson; providing for an appropriation to compensate the estate of Kharmilia Ferguson, Angela

Jones, and Raymond Ferguson for injuries and damages sustained; specifying use of funds; providing for reimbursement of Medicaid expenditures; providing an effective date.

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

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

Reports of Councils and Standing Committees

Report of the Procedural & Redistricting Council

The Honorable Tom Feeney May 1, 2001
Speaker, House of Representatives

Dear Mr. Speaker:

Your Procedural & Redistricting Council herewith submits the following Special Rule report:

I. Special Rule 01-15 applies to each House bill on third reading and each Senate bill on second or third reading during days 59 and 60 of the 2001 Regular Session.

A quorum of the Council was present in person, and two-thirds of those present agreed to the above Report.

Respectfully submitted,
Johnnie B. Byrd, Jr.
Chair

Special Rule 01-15

Bill(s): Each House bill on third reading and each Senate bill on second or third reading during days 59 and 60 of the 2001 Regular Session.

Notwithstanding House Rule 10.22, during days 59 and 60 of the 2001 Regular Session, any House bill remaining on third reading and any Senate bill on second or third reading shall be available for consideration by the House.

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

On motion by Rep. Byrd, the House moved to the consideration of CS/CS/HB 267 on Bills and Joint Resolutions on Third Reading.

Continuation of Bills and Joint Resolutions on Third Reading

CS/CS/HB 267—A bill to be entitled An act relating to school attendance by violent offenders; amending s. 230.235, F.S.; requiring schools to adopt a policy of zero tolerance for victimization of students; requiring each school district to enter into an agreement with the Department of Juvenile Justice for the purpose of protecting victims; amending s. 231.0851, F.S.; requiring principals to take certain actions when a student has been a victim of a violent crime perpetrated by another student; providing ineligibility for certain performance pay policy incentives under certain circumstances; creating s. 232.265, F.S.; requiring the Department of Juvenile Justice to provide certain notice to school districts under certain circumstances; prohibiting certain persons from attending certain schools or riding on certain school buses under certain circumstances; providing for attending alternate schools; assigning responsibility for certain transportation under certain circumstances; amending s. 960.001, F.S.; providing an additional guideline for attendance of a victim at the same school as a juvenile defendant; amending s. 985.228, F.S.; requiring certain court orders to include certain findings; amending s. 985.23, F.S.; requiring a court to determine the appropriateness of a no contact order under certain circumstances; amending ss. 985.231 and 985.233, F.S.; requiring a court placement order or a commitment order to include certain findings; providing an effective date.

—was read the third time by title.

Representative(s) Barreiro, Byrd, and Melvin offered the following:

(Amendment Bar Code: 390471)

Amendment 2 (with title amendment)—
remove from the bill: everything after the enacting clause,

and insert in lieu thereof:

Section 1. Paragraph (b) of subsection (1) and paragraph (d) of subsection (4) of section 20.316, Florida Statutes, are amended to read:

20.316 Department of Juvenile Justice.—There is created a Department of Juvenile Justice.

(1) SECRETARY OF JUVENILE JUSTICE.—

(b) The Secretary of Juvenile Justice is responsible for planning, coordinating, and managing the delivery of all programs and services within the juvenile justice continuum. For purposes of this section, the term "juvenile justice continuum" means all children-in-need-of-services programs; families-in-need-of-services programs; other prevention, early intervention, and diversion programs; detention centers and related programs and facilities; community-based residential *commitment* and nonresidential ~~commitment~~ programs; and delinquency institutions provided or funded by the department.

(4) INFORMATION SYSTEMS.—

(d) The management information system shall, at a minimum:

1. Facilitate case management of juveniles referred to or placed in the department's custody.

2. Provide timely access to current data and computing capacity to support ~~the~~ outcome evaluation ~~activities of the Juvenile Justice Advisory Board as provided in s. 985.401~~, legislative oversight, the Juvenile Justice Estimating Conference, and other research.

3. Provide automated support to the quality assurance and program review functions.

4. Provide automated support to the contract management process.

5. Provide automated support to the facility operations management process.

6. Provide automated administrative support to increase efficiency, provide the capability of tracking expenditures of funds by the department or contracted service providers that are eligible for federal reimbursement, and reduce forms and paperwork.

7. Facilitate connectivity, access, and utilization of information among various state agencies, and other state, federal, local, and private agencies, organizations, and institutions.

8. Provide electronic public access to juvenile justice information, which is not otherwise made confidential by law or exempt from the provisions of s. 119.07(1).

9. Provide a system for the training of information system users and user groups.

Section 2. Subsection (43) of section 228.041, Florida Statutes, is amended to read:

228.041 Definitions.—Specific definitions shall be as follows, and wherever such defined words or terms are used in the Florida School Code, they shall be used as follows:

(43) SCHOOL YEAR FOR JUVENILE JUSTICE PROGRAMS.—For schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs, the school year shall be comprised of 250 days of instruction distributed over 12 months. *At the request of the provider,* a district school board may decrease the minimum number of days of instruction by up to 10 days for teacher planning *for residential programs and up to 20 days for teacher planning for nonresidential programs, subject to the approval of the Department of Juvenile Justice and the Department of Education*.

Section 3. Subsection (1) of section 230.23161, Florida Statutes, is amended to read:

230.23161 Educational services in Department of Juvenile Justice programs.—

(1) The Legislature finds that education is the single most important factor in the rehabilitation of adjudicated delinquent youth in the custody of the Department of Juvenile Justice in detention or commitment facilities. It is the *goal* ~~intent~~ of the Legislature that youth in the juvenile justice system *continue to receive a high-quality* ~~be provided with equal opportunity and access to quality and effective~~ education ~~that will meet the individual needs of each child~~. The Department of Education shall serve as the lead agency for juvenile justice education programs*,* ~~to ensure that~~ curriculum, support services, and resources ~~are provided to maximize the public's investment in the custody and care of these youth~~. To this end, the Department of Education and the Department of Juvenile Justice shall each designate a Coordinator for Juvenile Justice Education Programs to serve as the point of contact for resolving issues not addressed by local district school boards and to *provide* ~~ensure~~ each department's participation in the following activities:

(a) Training, collaborating, and coordinating with the Department of Juvenile Justice, local school districts, educational contract providers, and juvenile justice providers, whether state operated or contracted.

(b) Collecting information on the academic performance of students in juvenile justice commitment and detention programs and reporting on the results.

(c) Developing academic and vocational protocols that provide guidance to school districts and providers in all aspects of education programming, including records transfer and transition.

(d) Prescribing the roles of program personnel and interdepartmental local school district or provider collaboration strategies.

Annually, a cooperative agreement and plan for juvenile justice education service enhancement shall be developed between the Department of Juvenile Justice and the Department of Education and submitted to the Secretary of Juvenile Justice and the Commissioner of Education by June 30.

Section 4. Section 230.235, Florida Statutes, is amended to read:

230.235 Policy of zero tolerance for crime *and victimization*.—

(1) Each school district shall*, pursuant to this section,* adopt a policy of zero tolerance for*:*

(a) Crime and substance abuse ~~pursuant to this section~~. Such a policy shall include the reporting of delinquent acts and crimes occurring whenever and wherever students are under the jurisdiction of the school district.

(b) Victimization of students. Such a policy shall include taking all steps necessary to protect the victim of any violent crime from any further victimization.

(2) The policy shall require students found to have committed one of the following offenses to be expelled, with or without continuing educational services, from the student's regular school for a period of not less than 1 full year, and to be referred for criminal prosecution:

(a) Bringing a firearm or weapon, as defined in chapter 790, to school, to any school function, or onto any school-sponsored transportation.

(b) Making a threat or false report, as defined by ss. 790.162 and 790.163, respectively, involving school or school personnel's property, school transportation, or a school-sponsored activity.

District school boards may assign the student to a disciplinary program or second chance school for the purpose of continuing educational services during the period of expulsion. Superintendents may consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if it is determined to be in the best interest of the student and the school system. If a student committing any of the offenses in this subsection is a student with a disability, the school district shall comply with procedures pursuant to s. 232.251 and any applicable state board rule.

(3) Each school district shall enter into an agreement with the county sheriff's office or local police department specifying guidelines for ensuring that felonies and violent misdemeanors, whether committed by a student or adult, and delinquent acts that would be felonies or violent misdemeanors if committed by an adult, are reported to law enforcement. *The cooperative agreement, adopted pursuant to s. 230.23161(14) with the Department of Juvenile Justice, shall specify guidelines for ensuring that all no contact orders entered by the court are reported and enforced and that all steps necessary are taken to protect the victim of any such crime.* Such agreements shall include the role of school resource officers, if applicable, in handling reported incidents, special circumstances in which school officials may handle incidents without filing a report to law enforcement, and a procedure for ensuring that school personnel properly report appropriate delinquent acts and crimes. The school principal shall be responsible for ensuring that all school personnel are properly informed as to their responsibilities regarding crime reporting, that appropriate delinquent acts and crimes are properly reported, and that actions taken in cases with special circumstances are properly taken and documented.

Section 5. Section 231.0851, Florida Statutes, is amended to read:

231.0851 Reports of school safety and discipline.—

(1) Each principal must ensure that standardized forms prescribed by rule of the State Board of Education are used to report data concerning school safety and discipline to the Department of Education. The principal must develop a plan to verify the accuracy of reported incidents.

(2) When a student has been the victim of a violent crime perpetrated by another student who attends the same school, the principal shall make full and effective use of the provisions of ss. 232.26(2) and 232.265. A principal who fails to comply with this subsection shall be ineligible for any portion of the performance pay policy incentive under s. 230.23(5)(c). However, if any party responsible for notification fails to properly notify the school, the principal shall be eligible for the incentive.

Section 6. Section 232.265, Florida Statutes, is created to read:

232.265 School attendance and transportation of certain offenders.—

(1) Notwithstanding any provision of law prohibiting the disclosure of the identity of a minor, whenever any person who is attending public school is adjudicated guilty of or delinquent for, or is found to have committed, regardless of whether adjudication is withheld, or pleads guilty or nolo contendere to, a felony violation of:

(a) Chapter 782, relating to homicide;

(b) Chapter 784, relating to assault, battery, and culpable negligence;

(c) Chapter 787, relating to kidnapping, false imprisonment, luring or enticing a child, and custody offenses;

(d) Chapter 794, relating to sexual battery;

(e) Chapter 800, relating to lewdness and indecent exposure;

(f) Chapter 827, relating to abuse of children;

(g) Section 812.13, relating to robbery;

(h) Section 812.131, relating to robbery by sudden snatching;

(i) Section 812.133, relating to carjacking; or

(j) Section 812.135, relating to home-invasion robbery,

and, before or at the time of such adjudication, withholding of adjudication, or plea, the offender was attending a school attended by the

victim or a sibling of the victim of the offense, the Department of Juvenile Justice shall notify the appropriate school district of the adjudication or plea and the operation of this section and whether the offender is prohibited from attending that school or riding on a school bus whenever the victim or a sibling of the victim is attending the same school or riding on the same school bus, except as provided pursuant to a written disposition order under s. 985.23(1)(d). Upon receipt of such notice, the school district shall take appropriate action to effectuate the provisions of subsection (2).

(2) Any offender described in subsection (1), who is not exempted as provided in subsection (1), shall not attend any school attended by the victim or a sibling of the victim of the offense or ride on a school bus on which the victim or a sibling of the victim is riding. The offender shall be permitted by the school district in which the offender resides to attend another school within the district, provided the other school is not attended by the victim or sibling of the victim of the offense or may be permitted by another school district to attend a school in that district if the offender is unable to attend any school in the district in which the offender resides due to the operation of this section.

(3) If the offender is unable to attend any other school in the district in which the offender resides and is prohibited from attending school in another school district, the school district in which the offender resides shall take every reasonable precaution to keep the offender separated from the victim while on school grounds or on school transportation. The steps to be taken by a school district to keep the offender separated from the victim shall include, but not be limited to, in-school suspension of the offender and the scheduling of classes, lunch, or other school activities of the victim and the offender so as not to coincide.

(4) The offender, or the parents or legal guardian of the offender if the offender is a juvenile, shall be responsible for arranging and paying for transportation associated with or required by the offender's attending another school or that would be required as a consequence of the prohibition against riding on a school bus on which the victim or a sibling of the victim is riding. However, the offender or the parents or the legal guardian of the offender shall not be charged for existing modes of transportation that can be used by the offender at no additional cost to the district.

Section 7. Subsection (1) of section 435.04, Florida Statutes, is amended, and present subsections (3) and (4) of said section are renumbered as subsections (4) and (5), respectively, and a new subsection (3) is added to said section, to read:

435.04 Level 2 screening standards.—

(1) All employees in positions designated by law as positions of trust or responsibility shall be required to undergo security background investigations as a condition of employment and continued employment. For the purposes of this subsection, security background investigations shall include, but not be limited to, ~~employment history checks,~~ fingerprinting for all purposes and checks in this subsection, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

(3) The security background investigations conducted under this section for employees of the Department of Juvenile Justice must ensure that no persons subject to the provisions of this section have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under any of the following provisions of the Florida Statutes or under any similar statute of another jurisdiction:

(a) Section 784.07, relating to assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers.

(b) Section 810.02, relating to burglary, if the offense is a felony.

(c) Section 944.40, relating to escape.

The Department of Juvenile Justice may not remove a disqualification from employment or grant an exemption to any person who is disqualified under this section for any offense disposed of during the most recent 7-year period.

Section 8. Section 943.0582, Florida Statutes, is created to read:

943.0582 Prearrest, postarrest, or teen court diversion program expunction.—

(1) Notwithstanding any law dealing generally with the preservation and destruction of public records, the department may provide, by rule adopted pursuant to chapter 120, for the expunction of any nonjudicial record of the arrest of a minor who has successfully completed a prearrest or postarrest diversion program for minors as authorized by s. 985.3065.

(2)(a) As used in this section, the term "expunction" has the same meaning ascribed in s. 943.0585, except that:

1. The provisions of s. 943.0585(4)(a) do not apply, except that the criminal history record of a person whose record is expunged pursuant to this section shall be made available only to criminal justice agencies for the purpose of determining eligibility for prearrest, postarrest, or teen court diversion programs; when the record is sought as part of a criminal investigation; or when the subject of the record is a candidate for employment with a criminal justice agency. For all other purposes, a person whose record is expunged under this section may lawfully deny or fail to acknowledge the arrest and the charge covered by the expunged record.

2. Records maintained by local criminal justice agencies in the county in which the arrest occurred which are eligible for expunction pursuant to this section shall be sealed as the term is used in s. 943.059.

(b) As used in this section, the term "nonviolent misdemeanor" includes simple assault or battery when prearrest or postarrest diversion expunction is approved in writing by the state attorney for the county in which the arrest occurred.

(3) The department shall expunge the nonjudicial arrest record of a minor who has successfully completed a prearrest or postarrest diversion program if that minor:

(a) Submits an application for prearrest or postarrest diversion expunction, on a form prescribed by the department, signed by the minor's parent or legal guardian, or by the minor if he or she has reached the age of majority at the time of applying.

(b) Submits the application for prearrest or postarrest diversion expunction no later than 6 months after completion of the diversion program.

(c) Submits to the department, with the application, an official written statement from the state attorney for the county in which the arrest occurred certifying that he or she has successfully completed that county's prearrest or postarrest diversion program and that participation in the program is strictly limited to minors arrested for a nonviolent misdemeanor who have not otherwise been charged with or found to have committed any criminal offense or comparable ordinance violation.

(d) Participated in a prearrest or postarrest diversion program that expressly authorizes or permits such expunction to occur.

(e) Participated in a prearrest or postarrest diversion program based on an arrest for a nonviolent misdemeanor that would not qualify as an act of domestic violence as that term is defined in s. 741.28.

(f) Has never, prior to filing the application for expunction, been charged with or found to have committed any criminal offense or comparable ordinance violation.

(4) The department is authorized to charge a $75 processing fee for each request received for prearrest or postarrest diversion program expunction, for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(5) This section operates retroactively to permit the expunction of any nonjudicial record of the arrest of a minor who has successfully

completed a prearrest or postarrest diversion program on or after July 1, 2000; however, in the case of a minor whose completion of the program occurred before the effective date of this section, the application for prearrest or postarrest diversion expunction must be submitted within 6 months after the effective date of this section.

(6) Expunction or sealing granted under this section does not prevent the minor who receives such relief from petitioning for the expunction or sealing of a later criminal history record as provided for in ss. 943.0585 and 943.059, if the minor is otherwise eligible under those sections.

Section 9. Paragraph (a) of subsection (1) of section 943.325, Florida Statutes, is amended to read:

943.325 Blood specimen testing for DNA analysis.—

(1)(a) Any person who is convicted or was previously convicted in this state for any offense or attempted offense defined in chapter 794, chapter 800, s. 782.04, s. 784.045, s. 810.02, s. 812.133, or s. 812.135, and *any person who is transferred to this state under Article VII of the Interstate Compact on Juveniles, part V of chapter 985, who has committed or attempted to commit an offense similarly defined by the transferring state,* who is either:

1. Still incarcerated, or

2. No longer incarcerated but is within the confines of the legal state boundaries and is on probation, community control, parole, conditional release, control release, or any other court-ordered supervision,

shall be required to submit two specimens of blood to a Department of Law Enforcement designated testing facility as directed by the department.

Section 10. Paragraph (s) is added to subsection (1) of section 960.001, Florida Statutes, to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems.—

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Department of Juvenile Justice, the Parole Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement the provisions of s. 16(b), Art. I of the State Constitution and to achieve the following objectives:

(s) Attendance of victim at same school as defendant.—When the victim of an offense committed by a juvenile is a minor, the Department of Juvenile Justice shall request information to determine if the victim, or any sibling of the victim, attends or is eligible to attend the same school as the offender. However, if the offender is subject to a presentence investigation by the Department of Corrections, the Department of Corrections shall make such request. If the victim or any sibling of the victim attends or is eligible to attend the same school as that of the offender, the appropriate agency shall notify the victim's parent or legal guardian of the right to attend the sentencing or disposition of the offender and request that the offender be required to attend a different school.

Section 11. Paragraph (a) of subsection (2) of section 984.01, Florida Statutes, is amended to read:

984.01 Purposes and intent; personnel standards and screening.—

(2) The Department of Juvenile Justice or the Department of Children and Family Services, as appropriate, may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the Department of Juvenile Justice or the Department of Children and Family Services contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. *Each contract entered into by either department for services delivered on an appointment or intermittent basis by a provider that does not have regular custodial responsibility for children and each contract with a school for before or aftercare services must ensure that the owners, operators, and all personnel who have direct contact with children are of good moral character.* A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

Section 12. Paragraph (a) of subsection (2) of section 985.01, Florida Statutes, is amended to read:

985.01 Purposes and intent; personnel standards and screening.—

(2) The Department of Juvenile Justice or the Department of Children and Family Services, as appropriate, may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the Department of Juvenile Justice or the Department of Children and Family Services contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. *Each contract entered into by either department for services delivered on an appointment or intermittent basis by a provider that does not have regular custodial responsibility for children and each contract with a school for before or aftercare services must ensure that the owners, operators, and all personnel who have direct contact with children are of good moral character.* A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

Section 13. Subsection (7) of section 985.02, Florida Statutes, is amended to read:

985.02 Legislative intent for the juvenile justice system.—

(7) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision to deter their participation in delinquent acts. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of caretakers to fulfill their responsibilities are identified through the delinquency intake process and that appropriate recommendations to address those problems are considered in any judicial or nonjudicial proceeding. *Nonetheless, as it is also the intent of the Legislature to preserve and strengthen the child's family ties, it is the policy of the Legislature that the emotional, legal, and financial responsibilities of the caretaker with regard to the care, custody, and support of the child continue while the child is in the physical or legal custody of the department.*

Section 14. Subsections (13), (26), (30), (31), (32), and paragraph (c) of subsection (45) of section 985.03, Florida Statutes, are amended, subsections (46) through (58) of said section are renumbered as subsections (47) through (59), respectively, a new subsection (46) is added to said section, and renumbered subsection (56) of said section is amended, to read:

985.03 Definitions.—When used in this chapter, the term:

(13) "Conditional release" means the care, treatment, help, and supervision provided to a juvenile released from a residential commitment program which is intended to promote rehabilitation and

prevent recidivism. The purpose of conditional release is to protect the public, reduce recidivism, increase responsible productive behavior, and provide for a successful transition of the youth from the department to the family. Conditional release includes, but is not limited to, ~~minimum-risk~~ nonresidential *community-based* programs ~~and postcommitment probation~~.

(26) "Halfway house" means a community-based residential program for 10 or more committed delinquents at the moderate-risk *commitment* ~~restrictiveness~~ level *which* ~~that~~ is operated or contracted by the Department of Juvenile Justice.

(30) "Juvenile probation officer" means the authorized agent of the Department of Juvenile Justice who performs the intake*,* ~~or~~ case management*, or supervision functions* ~~function for a child alleged to be delinquent~~.

(31) "Juvenile sexual offender" means:

(a) A juvenile who has been found by the court pursuant to s. 985.228 to have committed a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133;

(b) A juvenile found to have committed any *felony* violation of law or delinquent act involving juvenile sexual abuse. "Juvenile sexual abuse" means any sexual behavior which occurs without consent, without equality, or as a result of coercion. For purposes of this subsection, the following definitions apply:

1. "Coercion" means the exploitation of authority, use of bribes, threats of force, or intimidation to gain cooperation or compliance.

2. "Equality" means two participants operating with the same level of power in a relationship, neither being controlled nor coerced by the other.

3. "Consent" means an agreement including all of the following:

a. Understanding what is proposed based on age, maturity, developmental level, functioning, and experience.

b. Knowledge of societal standards for what is being proposed.

c. Awareness of potential consequences and alternatives.

d. Assumption that agreement or disagreement will be accepted equally.

e. Voluntary decision.

f. Mental competence.

Juvenile sexual offender behavior ranges from noncontact sexual behavior such as making obscene phone calls, exhibitionism, voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape, fellatio, sodomy, and various other sexually aggressive acts.

(32) "Legal custody *or guardian*" means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

(45) "Residential commitment level" means the level of security provided by programs that service the supervision, custody, care, and treatment needs of committed children. Sections 985.3141 and 985.404(13) apply to children placed in programs at any residential commitment level. The levels of residential commitment are as follows:

(c) High-risk residential.—Programs or program models at this commitment level are residential and shall not allow youth to have access to the community. Facilities are hardware-secure with perimeter fencing and locking doors. Facilities shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for this level of placement require close supervision in a structured residential setting. Placement in programs at this level is prompted by a concern for public safety that outweighs placement in programs at lower *commitment* ~~restrictiveness~~ levels. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. The facility may provide for single cell occupancy.

(46) "Respite" means a placement that is available for the care, custody, and placement of a youth charged with domestic violence as an alternative to secure detention or for placement of a youth when a shelter bed for a child in need of services or a family in need of services is unavailable.

(56)~~(55)~~ "Temporary release" means the terms and conditions under which a child is temporarily released from a commitment facility or allowed home visits. If the temporary release is from a moderate-risk residential facility, a high-risk residential facility, or a maximum-risk residential facility, the terms and conditions of the temporary release must be approved by the child, the court, and the facility. The term includes periods during which the child is supervised pursuant to a conditional release program or a period during which the child is supervised by a juvenile probation officer or other nonresidential staff of the department or staff employed by an entity under contract with the department. ~~A child placed in a postcommitment supervision program by order of the court is not considered to be on temporary release and is not subject to the terms and conditions of temporary release.~~

Section 15. Subsection (2), paragraph (a) of subsection (3), paragraph (a) of subsection (4), and subsection (5) of section 985.04, Florida Statutes, are amended to read:

985.04 Oaths; records; confidential information.—

(2) Records maintained by the Department of Juvenile Justice, including copies of records maintained by the court, which pertain to a child found to have committed a delinquent act which, if committed by an adult, would be a crime specified in ss. *435.03 and 435.04* ~~110.1127, 393.0655, 394.457, 397.451, 402.305(2), 409.175, and 409.176~~ may not be destroyed pursuant to this section *for a period of 25 years after the youth's final referral to the department*, except in cases of the death of the child. Such records, however, shall be sealed by the court for use only in meeting the screening requirements for personnel in s. 402.3055 and the other sections cited above, or pursuant to departmental rule; however, current criminal history information must be obtained from the Department of Law Enforcement in accordance with s. 943.053. The information shall be released to those persons specified in the above cited sections for the purposes of complying with those sections. The court may punish by contempt any person who releases or uses the records for any unauthorized purpose.

(3)(a) Except as provided in subsections (2), (4), (5), and (6), and s. 943.053, all information obtained under this part in the discharge of official duty by any judge, any employee of the court, any authorized agent of the Department of Juvenile Justice, the Parole Commission, ~~the Juvenile Justice Advisory Board,~~ the Department of Corrections, the juvenile justice circuit boards, any law enforcement agent, or any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile is confidential and may be disclosed only to the authorized personnel of the court, the Department of Juvenile Justice and its designees, the Department of Corrections, the Parole Commission, ~~the Juvenile Justice Advisory Board,~~ law enforcement agents, school superintendents and their designees, any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile, and others entitled under this chapter to receive that information, or upon order of the court. Within each county, the sheriff, the chiefs of police, the district school superintendent, and the department shall enter into an interagency agreement for the purpose of sharing information about juvenile offenders among all parties. The agreement must specify the conditions under which summary criminal history information is to be made available to appropriate school personnel, and the conditions under which school records are to be made available to appropriate department personnel. Such agreement shall require notification to any classroom teacher of assignment to the

teacher's classroom of a juvenile who has been placed in a probation or commitment program for a felony offense. The agencies entering into such agreement must comply with s. 943.0525, and must maintain the confidentiality of information that is otherwise exempt from s. 119.07(1), as provided by law.

(4)(a) Records in the custody of the Department of Juvenile Justice regarding children are not open to inspection by the public. Such records may be inspected only upon order of the Secretary of Juvenile Justice or his or her authorized agent by persons who have sufficient reason and upon such conditions for their use and disposition as the secretary or his or her authorized agent deems proper. The information in such records may be disclosed only to other employees of the Department of Juvenile Justice who have a need therefor in order to perform their official duty; to other persons as authorized by rule of the Department of Juvenile Justice; and, upon request, to ~~the Juvenile Justice Advisory Board and~~ the Department of Corrections. The secretary or his or her authorized agent may permit properly qualified persons to inspect and make abstracts from records for statistical purposes under whatever conditions upon their use and disposition the secretary or his or her authorized agent deems proper, provided adequate assurances are given that children's names and other identifying information will not be disclosed by the applicant.

(5) Notwithstanding any other provisions of this part, the name, photograph, address, and crime or arrest report of a child:

(a) Taken into custody if the child has been taken into custody by a law enforcement officer for a violation of law which, if committed by an adult, would be a felony; ~~or~~

(b) Found by a court to have committed three or more violations of law which, if committed by an adult, would be misdemeanors*;*

(c) Transferred to the adult system pursuant to s. 985.227, indicted pursuant to s. 985.225, or waived pursuant to s. 95.226;

(d) Taken into custody by a law enforcement officer for a violation of law subject to the provisions of s. 985.227(2)(b) or (d); or

(e) Transferred to the adult system but sentenced to the juvenile system pursuant to s. 985.233

shall not be considered confidential and exempt from the provisions of s. 119.07(1) solely because of the child's age.

Section 16. Paragraph (d) of subsection (1) and subsection (2) of section 985.207, Florida Statutes, are amended to read:

985.207 Taking a child into custody.—

(1) A child may be taken into custody under the following circumstances:

(d) By a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the child's probation, home detention, postcommitment *probation* ~~community control~~, or conditional release supervision or has *escaped* ~~absconded~~ from commitment.

Nothing in this subsection shall be construed to allow the detention of a child who does not meet the detention criteria in s. 985.215.

(2) When a child is taken into custody as provided in this section, the person taking the child into custody shall attempt to notify the parent, guardian, or legal custodian of the child. The person taking the child into custody shall continue such attempt until the parent, guardian, or legal custodian of the child is notified or the child is delivered to a juvenile probation officer pursuant to s. 985.21, whichever occurs first. If the child is delivered to a juvenile probation officer before the parent, guardian, or legal custodian is notified, the juvenile probation officer shall continue the attempt to notify until the parent, guardian, or legal custodian of the child is notified. *Following notification, the parent or guardian must provide identifying information, including name, address, date of birth, social security number, and driver's license number or identification card number of the parent or guardian to the person taking the child into custody or the juvenile probation officer.*

Section 17. Subsection (5) of section 985.21, Florida Statutes, is amended to read:

985.21 Intake and case management.—

(5) Prior to requesting that a delinquency petition be filed or prior to filing a dependency petition, the juvenile probation officer may request the parent or legal guardian of the child to attend a course of instruction in parenting skills, training in conflict resolution, and the practice of nonviolence; to accept counseling; or to receive other assistance from any agency in the community which notifies the clerk of the court of the availability of its services. Where appropriate, the juvenile probation officer shall request both parents or guardians to receive such parental assistance. The juvenile probation officer may, in determining whether to request that a delinquency petition be filed, take into consideration the willingness of the parent or legal guardian to comply with such request. *The parent or guardian must provide the juvenile probation officer with identifying information, including the parent's or guardian's name, address, date of birth, social security number, and driver's license number or identification card number in order to comply with ss. 985.215(6), 985.231(1)(b), and 985.233(4)(d).*

Section 18. Paragraph (b) of subsection (2) of section 985.213, Florida Statutes, is amended to read:

985.213 Use of detention.—

(2)

(b)1. The risk assessment instrument for detention care placement determinations and orders shall be developed by the Department of Juvenile Justice in agreement with representatives appointed by the following associations: the Conference of Circuit Judges of Florida, the Prosecuting Attorneys Association, the Public Defenders Association, the Florida Sheriffs Association, and the Florida Association of Chiefs of Police. Each association shall appoint two individuals, one representing an urban area and one representing a rural area. The parties involved shall evaluate and revise the risk assessment instrument as is considered necessary using the method for revision as agreed by the parties. The risk assessment instrument shall take into consideration, but need not be limited to, prior history of failure to appear, prior offenses, offenses committed pending adjudication, any unlawful possession of a firearm, theft of a motor vehicle or possession of a stolen motor vehicle, and *probation* ~~community control~~ status at the time the child is taken into custody. The risk assessment instrument shall also take into consideration appropriate aggravating and mitigating circumstances, and shall be designed to target a narrower population of children than s. 985.215(2). The risk assessment instrument shall also include any information concerning the child's history of abuse and neglect. The risk assessment shall indicate whether detention care is warranted, and, if detention care is warranted, whether the child should be placed into secure, nonsecure, or home detention care.

2. If, at the detention hearing, the court finds a material error in the scoring of the risk assessment instrument, the court may amend the score to reflect factual accuracy.

3. A child who is charged with committing an offense of domestic violence as defined in s. 741.28(1) and who does not meet detention criteria may be held in secure detention if the court makes specific written findings that:

a. Respite care for the child is not available; and

b. It is necessary to place the child in secure detention in order to protect the victim from injury.

The child may not be held in secure detention under this subparagraph for more than 48 hours unless ordered by the court. After 48 hours, the court shall hold a hearing if the state attorney or victim requests that secure detention be continued. The child may continue to be held in detention care if the court makes a specific, written finding that detention care is necessary to protect the victim from injury. However, the child may not be held in detention care beyond the time limits set forth in s. 985.215.

4. For a child who is under the supervision of the department through *probation* ~~community control~~, home detention, nonsecure detention, *conditional release* ~~aftercare~~, postcommitment *probation* ~~community control~~, or commitment and who is charged with committing a new offense, the risk assessment instrument may be completed and scored based on the underlying charge for which the child was placed under the supervision of the department and the new offense.

Section 19. Paragraph (a) of subsection (2) of section 985.215, Florida Statutes, is amended, and paragraph (f) is added to subsection (10) of said section, to read:

985.215 Detention.—

(2) Subject to the provisions of subsection (1), a child taken into custody and placed into nonsecure or home detention care or detained in secure detention care prior to a detention hearing may continue to be detained by the court if:

(a) The child is alleged to be an escapee or an absconder from a commitment program, a probation program, ~~furlough,~~ or conditional release supervision, or is alleged to have escaped while being lawfully transported to or from such program or supervision.

A child who meets any of these criteria and who is ordered to be detained pursuant to this subsection shall be given a hearing within 24 hours after being taken into custody. The purpose of the detention hearing is to determine the existence of probable cause that the child has committed the delinquent act or violation of law with which he or she is charged and the need for continued detention. Unless a child is detained under paragraph (d) or paragraph (e), the court shall utilize the results of the risk assessment performed by the juvenile probation officer and, based on the criteria in this subsection, shall determine the need for continued detention. A child placed into secure, nonsecure, or home detention care may continue to be so detained by the court pursuant to this subsection. If the court orders a placement more restrictive than indicated by the results of the risk assessment instrument, the court shall state, in writing, clear and convincing reasons for such placement. Except as provided in s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c), or paragraph (10)(d), when a child is placed into secure or nonsecure detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in paragraph (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1., whichever is applicable, unless the requirements of such applicable provision have been met or an order of continuance has been granted pursuant to paragraph (5)(d).

(10)

(f) Regardless of detention status, a child being transported by the department to a commitment facility of the department may be placed in secure detention overnight, not to exceed a 24-hour period, for the specific purpose of ensuring the safe delivery of the child to his or her commitment program, court, appointment, transfer, or release.

Section 20. Effective upon this act becoming a law and operating retroactively to July 1, 2000, subsection (6) of section 985.215, Florida Statutes, is amended to read:

985.215 Detention.—

(6)*(a)* When any child is placed into secure, nonsecure, or home detention care or into other placement pursuant to a court order following a detention hearing, the court shall order the ~~natural or adoptive~~ parents *or guardians* of such child~~, including the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child,~~ to pay to the Department of Juvenile Justice fees in *the* ~~an~~ amount of *$5* ~~$20~~ per day *that the child is under the care or supervision of the department in order to partially offset* ~~related to~~ the cost of the care, support, ~~and~~ maintenance*, and other usual and ordinary obligations of parents to provide for the needs of their children* ~~of the child, as established by the Department of Juvenile Justice~~, unless the court makes a finding on the record that the parent or guardian of the child is indigent.

(b) At the time of the detention hearing, the department shall report to the court, verbally or in writing, any available information concerning the ability of the parent or guardian of the child to pay such fee. *If the court makes a finding of indigency, the parent or guardian shall pay to the department a nominal subsistence fee of $2 per day that the child is securely detained outside the home or $1 per day if the child is otherwise detained in lieu of other fees related to the parent's obligation for the child's cost of care. The nominal subsistence fee may only be waived or reduced if the court makes a finding that such payment would constitute a significant financial hardship. Such finding shall be in writing and shall contain a detailed description of the facts that led the court to make both the finding of indigency and the finding of significant financial hardship.* ~~As to each parent or guardian for whom the court makes a finding of indigency, the court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the fees specified herein. If the court makes a finding of indigency or inability to pay the full cost of care, support, and maintenance of the child, the court shall order the parent or guardian to pay to the department a nominal subsistence fee on behalf of the child in the amount of at least $2 per day that the child is detained outside the home or at least $1 per day if the child is otherwise detained, unless the court makes a finding on the record that the parent or guardian would suffer a significant hardship if obligated for such amount.~~

(c) In addition, the court may reduce the fees or waive the fees as to each parent or guardian if the court makes a finding on the record that the parent or guardian was the victim of the delinquent act or violation of law for which the child is detained and that the parent or guardian is cooperating in the investigation of the offense. ~~As to each parent or guardian, the court may reduce the fees or waive the fees if the court makes a finding on the record that the parent or guardian has made a diligent and good faith effort to prevent the child from engaging in the delinquent act or violation of law.~~

(d) The court must include specific findings in the detention order as to what fees are ordered, reduced, or waived. If the court fails to enter an order as required by this subsection, it shall be presumed that the court intended the parent or guardian to pay to the department the fee of *$5* ~~$20~~ per day that the child remains in detention care.

(e) With respect to a child who has been found to have committed a delinquent act or violation of law, whether or not adjudication is withheld, and whose parent or guardian receives public assistance for any portion of that child's care, the department must seek a federal waiver to garnish or otherwise order the payments of the portion of the public assistance relating to that child to offset the costs of providing care, custody, maintenance, rehabilitation, intervention, or corrective services to the child. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(f) The clerk of the circuit court shall act as a depository for these fees. Upon each payment received, the clerk of the circuit court shall receive a fee from the total payment of 3 percent of any payment made except that no fee shall be less than $1 nor more than $5 per payment made. This fee shall serve as a service charge for the administration, management, and maintenance of each payment. At the end of each month, the clerk of the circuit court shall send all money collected under this section to the state Grants and Donations Trust Fund.

(g) The parent or guardian shall provide to the department the parent's or guardian's name, address, social security number, date of birth, and driver's license number or identification card number and sufficient financial information for the department to be able to determine the parent's or guardian's ability to pay. If the parent or guardian refuses to provide the department with any identifying information or financial information, the court shall order the parent to comply and may pursue contempt of court sanctions for failure to comply.

(h) The department may employ a collection agency for the purpose of receiving, collecting, and managing the payment of unpaid and

delinquent fees. The collection agency must be registered and in good standing under chapter 559. The department may pay to the collection agency a fee from the amount collected under the claim or may authorize the agency to deduct the fee from the amount collected. The department may also pay for collection services from available authorized funds.

(i) The department may enter into agreements with parents or guardians to establish a schedule of periodic payments if payment of the obligation in full presents an undue hardship. Any such agreement may provide for payment of interest consistent with prevailing loan rates.

(j) The Department of Juvenile Justice shall provide to the payor documentation of any amounts paid by the payor to the Department of Juvenile Justice on behalf of the child. All payments received by the department pursuant to this subsection shall be deposited in the state Grants and Donations Trust Fund. Neither the court nor the department may extend the child's length of stay in detention care solely for the purpose of collecting fees.

Section 21. Subsection (4) of section 985.227, Florida Statutes, is amended to read:

985.227 Prosecution of juveniles as adults by the direct filing of an information in the criminal division of the circuit court; discretionary criteria; mandatory criteria.—

(4) DIRECT-FILE POLICIES AND GUIDELINES.—Each state attorney shall develop written policies and guidelines to govern determinations for filing an information on a juvenile, to be submitted to the Executive Office of the Governor, the President of the Senate, *and* the Speaker of the House of Representatives~~, and the Juvenile Justice Advisory Board~~ not later than January 1 of each year.

Section 22. Subsection (4) of section 985.228, Florida Statutes, is amended to read:

985.228 Adjudicatory hearings; withheld adjudications; orders of adjudication.—

(4) If the court finds that the child named in the petition has committed a delinquent act or violation of law, it may, in its discretion, enter an order stating the facts upon which its finding is based but withholding adjudication of delinquency and placing the child in a probation program under the supervision of the department or under the supervision of any other person or agency specifically authorized and appointed by the court. The court may, as a condition of the program, impose as a penalty component restitution in money or in kind, community service, a curfew, urine monitoring, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense, and may impose as a rehabilitative component a requirement of participation in substance abuse treatment, or school or other educational program attendance. *If the child is attending public school and the court finds that the victim or a sibling of the victim in the case was assigned to attend or is eligible to attend the same school as the child, the court order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d).* If the court later finds that the child has not complied with the rules, restrictions, or conditions of the community-based program, the court may, after a hearing to establish the lack of compliance, but without further evidence of the state of delinquency, enter an adjudication of delinquency and shall thereafter have full authority under this chapter to deal with the child as adjudicated.

Section 23. Paragraph (d) of subsection (1) of section 985.23, Florida Statutes, is amended to read:

985.23 Disposition hearings in delinquency cases.—When a child has been found to have committed a delinquent act, the following procedures shall be applicable to the disposition of the case:

(1) Before the court determines and announces the disposition to be imposed, it shall:

(d) Give all parties present at the hearing an opportunity to comment on the issue of disposition and any proposed rehabilitative plan. Parties to the case shall include the parents, legal custodians, or guardians of the child; the child's counsel; the state attorney; representatives of the department; the victim if any, or his or her representative; representatives of the school system; and the law enforcement officers involved in the case. *If the child is attending or is eligible to attend public school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court shall, on its own motion or upon the request of any party or any parent or legal guardian of the victim, determine whether it is appropriate to enter a no contact order in favor of the victim or a sibling of the victim. If appropriate and acceptable to the victim and the victim's parent or parents or legal guardian, the court may reflect in the written disposition order that the victim or the victim's parent stated in writing or in open court that he or she did not object to the offender being permitted to attend the same school or ride on the same school bus as the victim or a sibling of the victim.*

It is the intent of the Legislature that the criteria set forth in subsection (2) are general guidelines to be followed at the discretion of the court and not mandatory requirements of procedure. It is not the intent of the Legislature to provide for the appeal of the disposition made pursuant to this section.

Section 24. Paragraph (a) of subsection (1) and subsection (2) of section 985.231, Florida Statutes, are amended to read:

985.231 Powers of disposition in delinquency cases.—

(1)(a) The court that has jurisdiction of an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing:

1. Place the child in a probation program or a postcommitment probation program under the supervision of an authorized agent of the Department of Juvenile Justice or of any other person or agency specifically authorized and appointed by the court, whether in the child's own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct. A probation program for an adjudicated delinquent child must include a penalty component such as restitution in money or in kind, community service, a curfew, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense and must also include a rehabilitative program component such as a requirement of participation in substance abuse treatment or in school or other educational program. *If the child is attending or is eligible to attend public school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court placement order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d).* Upon the recommendation of the department at the time of disposition, or subsequent to disposition pursuant to the filing of a petition alleging a violation of the child's conditions of postcommitment probation ~~or conditional release supervision~~, the court may order the child to submit to random testing for the purpose of detecting and monitoring the use of alcohol or controlled substances.

a. A restrictiveness level classification scale for levels of supervision shall be provided by the department, taking into account the child's needs and risks relative to probation supervision requirements to reasonably ensure the public safety. Probation programs for children shall be supervised by the department or by any other person or agency specifically authorized by the court. These programs must include, but are not limited to, structured or restricted activities as described in this subparagraph, and shall be designed to encourage the child toward acceptable and functional social behavior. If supervision or a program of community service is ordered by the court, the duration of such supervision or program must be consistent with any treatment and rehabilitation needs identified for the child and may not exceed the term for which sentence could be imposed if the child were committed for the offense, except that the duration of such supervision or program for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months. When restitution is ordered by the court, the amount of restitution may not exceed an amount the child and the parent or

guardian could reasonably be expected to pay or make. A child who participates in any work program under this part is considered an employee of the state for purposes of liability, unless otherwise provided by law.

b. The court may conduct judicial review hearings for a child placed on probation for the purpose of fostering accountability to the judge and compliance with other requirements, such as restitution and community service. The court may allow early termination of probation for a child who has substantially complied with the terms and conditions of probation.

c. If the conditions of the probation program or the postcommitment probation program are violated, the department or the state attorney may bring the child before the court on a petition alleging a violation of the program. Any child who violates the conditions of probation or postcommitment probation must be brought before the court if sanctions are sought. A child taken into custody under s. 985.207 for violating the conditions of probation or postcommitment probation shall be held in a consequence unit if such a unit is available. The child shall be afforded a hearing within 24 hours after being taken into custody to determine the existence of probable cause that the child violated the conditions of probation or postcommitment probation. A consequence unit is a secure facility specifically designated by the department for children who are taken into custody under s. 985.207 for violating probation or postcommitment probation, or who have been found by the court to have violated the conditions of probation or postcommitment probation. If the violation involves a new charge of delinquency, the child may be detained under s. 985.215 in a facility other than a consequence unit. If the child is not eligible for detention for the new charge of delinquency, the child may be held in the consequence unit pending a hearing and is subject to the time limitations specified in s. 985.215. If the child denies violating the conditions of probation or postcommitment probation, the court shall appoint counsel to represent the child at the child's request. Upon the child's admission, or if the court finds after a hearing that the child has violated the conditions of probation or postcommitment probation, the court shall enter an order revoking, modifying, or continuing probation or postcommitment probation. In each such case, the court shall enter a new disposition order and, in addition to the sanctions set forth in this paragraph, may impose any sanction the court could have imposed at the original disposition hearing. If the child is found to have violated the conditions of probation or postcommitment probation, the court may:

(I) Place the child in a consequence unit in that judicial circuit, if available, for up to 5 days for a first violation, and up to 15 days for a second or subsequent violation.

(II) Place the child on home detention with electronic monitoring. However, this sanction may be used only if a residential consequence unit is not available.

(III) Modify or continue the child's probation program or postcommitment probation program.

(IV) Revoke probation or postcommitment probation and commit the child to the department.

d. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of any order placing a child in a probation program must be until the child's 19th birthday unless he or she is released by the court, on the motion of an interested party or on its own motion.

2. Commit the child to a licensed child-caring agency willing to receive the child, but the court may not commit the child to a jail or to a facility used primarily as a detention center or facility or shelter.

3. Commit the child to the Department of Juvenile Justice at a *residential commitment* ~~restrictiveness~~ level defined in s. 985.03. Such commitment must be for the purpose of exercising active control over the child, including, but not limited to, custody, care, training, urine monitoring, and treatment of the child and release of the child into the community in a postcommitment nonresidential conditional release program. *If the child is eligible to attend public school following residential commitment and the court finds that the victim or a sibling of the victim in the case is or may be attending the same school as the child, the commitment order shall include a finding pursuant to the proceedings described in s. 985.23(1)(d).* If the child is not successful in the conditional release program, the department may use the transfer procedure under s. 985.404. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of the commitment must be until the child is discharged by the department or until he or she reaches the age of 21.

4. Revoke or suspend the driver's license of the child.

5. Require the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to render community service in a public service program.

6. As part of the probation program to be implemented by the Department of Juvenile Justice, or, in the case of a committed child, as part of the community-based sanctions ordered by the court at the disposition hearing or before the child's release from commitment, order the child to make restitution in money, through a promissory note cosigned by the child's parent or guardian, or in kind for any damage or loss caused by the child's offense in a reasonable amount or manner to be determined by the court. The clerk of the circuit court shall be the receiving and dispensing agent. In such case, the court shall order the child or the child's parent or guardian to pay to the office of the clerk of the circuit court an amount not to exceed the actual cost incurred by the clerk as a result of receiving and dispensing restitution payments. The clerk shall notify the court if restitution is not made, and the court shall take any further action that is necessary against the child or the child's parent or guardian. A finding by the court, after a hearing, that the parent or guardian has made diligent and good faith efforts to prevent the child from engaging in delinquent acts absolves the parent or guardian of liability for restitution under this subparagraph.

7. Order the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to participate in a community work project, either as an alternative to monetary restitution or as part of the rehabilitative or probation program.

8. Commit the child to the Department of Juvenile Justice for placement in a program or facility for serious or habitual juvenile offenders in accordance with s. 985.31. Any commitment of a child to a program or facility for serious or habitual juvenile offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over such child until the child reaches the age of 21, specifically for the purpose of the child completing the program.

9. In addition to the sanctions imposed on the child, order the parent or guardian of the child to perform community service if the court finds that the parent or guardian did not make a diligent and good faith effort to prevent the child from engaging in delinquent acts. The court may also order the parent or guardian to make restitution in money or in kind for any damage or loss caused by the child's offense. The court shall determine a reasonable amount or manner of restitution, and payment shall be made to the clerk of the circuit court as provided in subparagraph 6.

10. Subject to specific appropriation, commit the juvenile sexual offender to the Department of Juvenile Justice for placement in a program or facility for juvenile sexual offenders in accordance with s. 985.308. Any commitment of a juvenile sexual offender to a program or facility for juvenile sexual offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over a juvenile sexual offender until the juvenile sexual offender reaches the age of 21, specifically for the purpose of completing the program.

(2) Following a delinquency adjudicatory hearing pursuant to s. 985.228 and a delinquency disposition hearing pursuant to s. 985.23 which results in a commitment determination, the court shall, on its

own or upon request by the state or the department, determine whether the protection of the public requires that the child be placed in a program for serious or habitual juvenile offenders and whether the particular needs of the child would be best served by a program for serious or habitual juvenile offenders as provided in s. 985.31. The determination shall be made pursuant to ss. 985.03*(46)*~~(47)~~ and 985.23(3).

Section 25. Effective upon this act becoming a law and operating retroactively to July 1, 2000, paragraph (b) of subsection (1) of section 985.231, Florida Statutes, is amended to read:

985.231 Powers of disposition in delinquency cases.—

(1)

(b)*1.* When any child is adjudicated by the court to have committed a delinquent act and temporary legal custody of the child has been placed with a licensed child-caring agency or the Department of Juvenile Justice, the court shall order the ~~natural or adoptive~~ parents of such child, ~~including the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets that under law may be disbursed for the care, support, and maintenance of the child,~~ to pay fees to the department in the amount *of $5 per day that the child is under the care or supervision of the department in order to partially offset the* ~~not to exceed the actual~~ cost of the care, support, ~~and~~ maintenance*, and other usual and ordinary obligations of parents to provide for the needs of their children while* ~~of the child~~ in the recommended residential commitment level, unless the court makes a finding on the record that the parent or guardian of the child is indigent.

2. No later than the disposition hearing, the department shall provide the court with information concerning the actual cost of care, support, and maintenance of the child in the recommended residential commitment level and concerning the ability of the parent or guardian of the child to pay any fees. *If the court makes a finding of indigency, the parent or guardianship shall pay to the department a nominal subsistence fee of $2 per day that the child is committed outside the home or $1 per day if the child is otherwise supervised in lieu of other fees related to the parents' obligation for the child's cost of care. The nominal subsistence fee may only be waived or reduced if the court makes a finding that such payment would constitute a significant financial hardship. Such finding shall be in writing and shall contain a detailed description of the facts that led the court to make both the finding of indigency and the finding of significant financial hardship.* ~~As to each parent or guardian for whom the court makes a finding of indigency, the court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the full cost of the care, support, and maintenance of the child. If the court makes a finding of indigency or inability to pay the full cost of care, support, and maintenance of the child, the court shall order the parent or guardian to pay to the department a nominal subsistence fee on behalf of the child in the amount of at least $2 per day that the child is placed outside the home or at least $1 per day if the child is otherwise placed, unless the court makes a finding on the record that the parent or guardian would suffer a significant hardship if obligated for such amount.~~

3. In addition, the court may reduce the fees or waive the fees as to each parent or guardian if the court makes a finding on the record that the parent or guardian was the victim of the delinquent act or violation of law for which the child is subject to placement under this section and that the parent or guardian has cooperated in the investigation and prosecution of the offense. ~~As to each parent or guardian, the court may reduce the fees or waive the fees if the court makes a finding on the record that the parent or guardian has made a diligent and good faith effort to prevent the child from engaging in the delinquent act or violation of law.~~

4. All orders committing a child to a residential commitment program shall include specific findings as to what fees are ordered, reduced, or waived. If the court fails to enter an order as required by this paragraph, it shall be presumed that the court intended the parent or guardian to pay fees to the department in an amount *of $5 per day related to* ~~not to exceed the actual cost of~~ the care, support, and maintenance of the child. With regard to a child who reaches the age of 18 prior to the disposition hearing, the court may elect to direct an order required by this paragraph to such child, rather than the parent or guardian. With regard to a child who reaches the age of 18 while in the custody of the department, the court may, upon proper motion of any party, hold a hearing as to whether any party should be further obligated respecting the payment of fees. *When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.*

5. The clerk of the circuit court shall act as a depository for these fees. Upon each payment received, the clerk of the circuit court shall receive a fee from the total payment of 3 percent of any payment made except that no fee shall be less than $1 nor more than $5 per payment made. This fee shall serve as a service charge for the administration, management, and maintenance of each payment. At the end of each month, the clerk of the circuit court shall send all money collected under this section to the state Grants and Donations Trust Fund.

6. The parent or guardian shall provide to the department the parent or guardian's name, address, social security number, state of birth, and driver's license number or identification card number and sufficient financial information for the department to be able to determine the parent or guardian's ability to pay. If the parent or guardian refuses to provide the department with any identifying information or financial information, the court shall order the parent to comply and may pursue contempt of court sanctions for failure to comply.

7. The department may employ a collection agency for the purpose of receiving, collecting, and managing the payment of unpaid and delinquent fees. The collection agency must be registered and in good standing under chapter 559. The department may pay to the collection agency a fee from the amount collected under the claim or may authorize the agency to deduct the fee from the amount collected. The department may also pay for collection services from available authorized funds.

8. The department may enter into agreements with parents or guardians to establish a schedule of periodic payments if payment of the obligation in full presents an undue hardship. Any such agreement may provide for payment of interests consistent with prevailing loan rates.

9. The Department of Juvenile Justice shall provide to the payor documentation of any amounts paid by the payor to the Department of Juvenile Justice on behalf of the child. All payments received by the department pursuant to this subsection shall be deposited in the state Grants and Donations Trust Fund.

10. Neither the court nor the department may extend the child's length of stay in placement care solely for the purpose of collecting fees.

Section 26. Effective upon this act becoming a law and operating retroactively to July 1, 2000, paragraph (d) of subsection (4) of section 985.233, Florida Statutes, is amended to read:

985.233 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(4) SENTENCING ALTERNATIVES.—

(d)*1.* Recoupment of cost of care in juvenile justice facilities.—When the court orders commitment of a child to the Department of Juvenile Justice for treatment in any of the department's programs for children, the court shall order the ~~natural or adoptive~~ parents of such child~~, including the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child,~~ to pay fees in the amount *of $5 per day that the child is under the care or supervision of the department in order to partially offset the* ~~not to exceed the actual~~ cost of the care, support, ~~and~~ maintenance*, and other usual and ordinary obligations of parents to provide for the needs of their children* ~~of the child~~, unless the court makes a finding on the record that the parent or legal guardian of the child is indigent.

2. Prior to commitment, the department shall provide the court with information concerning the actual cost of care in the recommended residential commitment level and concerning the ability of the parent or guardian of the child to pay specified fees. *If the court makes a finding of indigency, the parent or guardian shall pay to the department a nominal subsistence fee of $2 per day that the child is committed outside the home or $1 per day if the child is otherwise supervised in lieu of other fees related to the parent's obligation for the child's cost of care. The nominal subsistence fee may only be waived or reduced if the court makes a finding that such payment would constitute a significant financial hardship. Such finding shall be in writing and shall contain a detailed description of the facts that led the court to make both the finding of indigency and the finding of significant financial hardship.* ~~As to each parent or guardian for whom the court makes a finding of indigency, the court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the full cost of the care, support, and maintenance of the child. If the court makes a finding of indigency or inability to pay the full cost of care, support, and maintenance of the child, the court shall order the parent or guardian to pay the department a nominal subsistence fee on behalf of the child in the amount of at least $2 per day that the child is placed outside the home or at least $1 per day if the child is otherwise placed, unless the court makes a finding on the record that the parent or guardian would suffer a significant hardship if obligated for such amount.~~

3. In addition, the court may reduce the fees or waive the fees as to each parent or guardian if the court makes a finding on the record that the parent or guardian was the victim of the delinquent act or violation of law for which the child is subject to commitment under this section and that the parent or guardian has cooperated in the investigation and prosecution of the offense. ~~As to each parent or guardian, the court may reduce the fees or waive the fees if the court makes a finding on the record that the parent or guardian has made a diligent and good faith effort to prevent the child from engaging in the delinquent act or violation of law.~~ When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

4. All orders committing a child to a residential commitment program shall include specific findings as to what fees are ordered, reduced, or waived. If the court fails to enter an order as required by this paragraph, it shall be presumed that the court intended the parent or guardian to pay fees to the department in an amount *of $5 per day related to* ~~not to exceed the actual cost of~~ the care, support, and maintenance of the child. With regard to a child who reaches the age of 18 prior to the disposition hearing, the court may elect to direct an order required by this paragraph to such child, rather than the parent or guardian. With regard to a child who reaches the age of 18 while in the custody of the department, the court may, upon proper motion of any party, hold a hearing as to whether any party should be further obligated respecting the payment of fees.

5. The clerk of the circuit court shall act as a depository for these fees. Upon each payment received, the clerk of the circuit court shall receive a fee from the total payment of 3 percent of any payment made except that no fee shall be less than $1 nor more than $5 per payment made. This fee shall serve as a service charge for the administration, management, and maintenance of each payment. At the end of each month, the clerk of the circuit court shall send all money collected under this section to the state Grants and Donations Trust Fund.

6. The parent or guardian shall provide to the department the parent or guardian's name, address, social security number, date of birth, and driver's license number or identification card number and sufficient financial information for the department to be able to determine the parent or guardian's ability to pay. If the parent or guardian refuses to provide the department with any identifying information or financial information, the court shall order the parent to comply and may pursue contempt of court sanctions for failure to comply.

7. The department may employ a collection agency for the purpose of receiving, collecting, and managing the payment of unpaid and delinquent fees. The collection agency must be registered and in good standing under chapter 559. The department may pay to the collection agency a fee from the amount collected under the claim or may authorize the agency to deduct the fee from the amount collected. The department may also pay for collection services from available authorized funds. The Department of Juvenile Justice shall provide to the payor documentation of any amounts paid by the payor to the Department of Juvenile Justice on behalf of the child. All payments received by the department pursuant to this subsection shall be deposited in the state Grants and Donations Trust Fund.

8. Neither the court nor the department may extend the child's length of stay in commitment care solely for the purpose of collecting fees.

Section 27. Paragraph (f) is added to subsection (4) of section 985.233, Florida Statutes, to read:

985.233 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(4) SENTENCING ALTERNATIVES.—

(f) School attendance.—If the child is attending or is eligible to attend public school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court placement order shall include a finding pursuant to the proceeding described in s. 985.23(1)(d).

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.234.

Section 28. Subsection (2) of section 985.305, Florida Statutes, is amended to read:

985.305 Early delinquency intervention program; criteria.—

(2) The early delinquency intervention program shall consist of intensive residential treatment in a secure facility for 7 days to 6 weeks, followed by 6 to 9 months of *additional services* ~~conditional release~~. An early delinquency intervention program facility shall be designed to accommodate the placement of a maximum of 10 children, except that the facility may accommodate up to 2 children in excess of that maximum if the additional children have previously been released from the residential portion of the program and are later found to need additional residential treatment.

Section 29. Section 985.3065, Florida Statutes, is amended to read:

985.3065 Prearrest *or postarrest* diversion programs.—

(1) A law enforcement agency or school district, in cooperation with the state attorney, may establish a prearrest *or postarrest* diversion program.

(2) As part of the prearrest *or postarrest* diversion program, a child who is alleged to have committed a delinquent act may be required to surrender his or her driver's license, or refrain from applying for a driver's license, for not more than 90 days. If the child fails to comply with the requirements of the program, the state attorney may notify the Department of Highway Safety and Motor Vehicles in writing to suspend the child's driver's license for a period that may not exceed 90 days.

(3) The prearrest or postarrest diversion program may, upon agreement of the agencies that establish the program, provide for the expunction of the nonjudicial arrest record of a minor who successfully completes such a program pursuant to s. 943.0582.

Section 30. Paragraph (e) of subsection (3) and paragraph (a) of subsection (4) of section 985.31, Florida Statutes, are amended to read:

985.31 Serious or habitual juvenile offender.—

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(e) After a child has been adjudicated delinquent pursuant to s. 985.228, the court shall determine whether the child meets the criteria for a serious or habitual juvenile offender pursuant to s. 985.03*(48)*~~(47)~~. If the court determines that the child does not meet such criteria, the provisions of s. 985.231(1) shall apply.

(4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.—

(a) Pursuant to the provisions of this section, the department shall implement the comprehensive assessment instrument for the treatment needs of serious or habitual juvenile offenders and for the assessment, which assessment shall include the criteria under s. 985.03*(48)*~~(47)~~ and shall also include, but not be limited to, evaluation of the child's:

1. Amenability to treatment.

2. Proclivity toward violence.

3. Tendency toward gang involvement.

4. Substance abuse or addiction and the level thereof.

5. History of being a victim of child abuse or sexual abuse, or indication of sexual behavior dysfunction.

6. Number and type of previous adjudications, findings of guilt, and convictions.

7. Potential for rehabilitation.

Section 31. Subsection (4) of section 985.3155, Florida Statutes, is amended to read:

985.3155 Multiagency plan for vocational education.—

(4) The plan must also address strategies to facilitate involvement of business and industry in the design, delivery, and evaluation of vocational programming in juvenile justice commitment facilities and *conditional release* ~~aftercare~~ programs, including apprenticeship and work experience programs, mentoring and job shadowing, and other strategies that lead to postrelease employment. Incentives for business involvement, such as tax breaks, bonding, and liability limits should be investigated, implemented where appropriate, or recommended to the Legislature for consideration.

Section 32. Subsections (4) and (5) of section 985.316, Florida Statutes, are amended to read:

985.316 Conditional release.—

(4) ~~After a youth is released from a residential commitment program, conditional release services may be delivered through either minimum-risk nonresidential commitment restrictiveness programs or postcommitment probation.~~ A juvenile under ~~minimum-risk~~ nonresidential commitment placement will continue to be on commitment status and subject to the transfer provision under s. 985.404. ~~A juvenile on postcommitment probation will be subject to the provisions under s. 985.231(1)(a).~~

(5) Participation in the educational program by students of compulsory school attendance age pursuant to s. 232.01 is mandatory for juvenile justice youth on *conditional release* ~~aftercare~~ or postcommitment *probation* ~~community control~~ status. A student of noncompulsory school-attendance age who has not received a high school diploma or its equivalent must participate in the educational program. A youth who has received a high school diploma or its equivalent and is not employed must participate in workforce development or other vocational or technical education or attend a community college or a university while in the program, subject to available funding.

Section 33. Subsections (3) and (4) of section 985.404, Florida Statutes, are amended to read:

985.404 Administering the juvenile justice continuum.—

(3)*(a)* The department shall develop or contract for diversified and innovative programs to provide rehabilitative treatment, including early intervention and prevention, diversion, comprehensive intake, case management, diagnostic and classification assessments, individual and family counseling, shelter care, diversified detention care emphasizing alternatives to secure detention, diversified probation, halfway houses, foster homes, community-based substance abuse treatment services, community-based mental health treatment services, community-based residential and nonresidential programs, environmental programs, and programs for serious or habitual juvenile offenders. Each program shall place particular emphasis on reintegration and conditional release for all children in the program.

(b) The Legislature intends that, whenever possible and reasonable, the department make every effort to consider qualified faith-based organizations on an equal basis with other private organizations when selecting contract providers of services to juveniles.

(c) The department may contract with faith-based organizations on the same basis as any other nongovernmental provider, without impairing the religious character of such organizations. Any faith-based organization may act as a contractor in the delivery of services under any program, on the same basis as any other nongovernmental provider, without impairing the religious character of such organization. A faith-based organization, which has entered into a contract with the department, shall retain its independence from state and local governments with regard to control over the definition, development, practice, and expression of its religious beliefs. The department shall not require a faith-based organization to alter its form of internal government or remove religious art, icons, scripture, or other symbols in order to be eligible to contract as a provider.

(d) The department may include in any services contract a requirement that providers prepare plans describing their implementation of paragraphs (a) and (c) of this subsection. A failure to deliver such plans, if required, may be considered by the department as a breach of the contract that may result in cancellation of the contract.

(4) The department may transfer a child, when necessary to appropriately administer the child's commitment, from one facility or program to another facility or program operated, contracted, subcontracted, or designated by the department, including a postcommitment ~~minimum-risk~~ nonresidential conditional release program. The department shall notify the court that committed the child to the department and any attorney of record, in writing, of its intent to transfer the child from a commitment facility or program to another facility or program of a higher or lower restrictiveness level. The court that committed the child may agree to the transfer or may set a hearing to review the transfer. If the court does not respond within 10 days after receipt of the notice, the transfer of the child shall be deemed granted.

Section 34. Section 985.412, Florida Statutes, is amended to read:

985.412 Quality assurance *and cost-effectiveness*.—

(1)~~(a)~~ It is the intent of the Legislature *that the department* ~~to~~:

(a)~~1.~~ Ensure that information be provided to decisionmakers *in a timely manner* so that resources are allocated to programs of the department which achieve desired performance levels.

(b)~~2.~~ Provide information about the cost of such programs and their differential effectiveness so that the quality of such programs can be compared and improvements made continually.

(c)~~3.~~ Provide information to aid in developing related policy issues and concerns.

(d)~~4.~~ Provide information to the public about the effectiveness of such programs in meeting established goals and objectives.

(e)~~5.~~ Provide a basis for a system of accountability so that each client is afforded the best programs to meet his or her needs.

(f)~~6.~~ Improve service delivery to clients.

(g)~~7.~~ Modify or eliminate activities that are not effective.

(2)~~(b)~~ As used in this *section* ~~subsection~~, the term:

(a)~~1.~~ "Client" means any person who is being provided treatment or services by the department or by a provider under contract with the department.

(b)~~2.~~ "Program component" means an aggregation of generally related objectives which, because of their special character, related workload, and interrelated output, can logically be considered an entity for purposes of organization, management, accounting, reporting, and budgeting.

(c)~~3.~~ "Program effectiveness" means the ability of the program to achieve desired client outcomes, goals, and objectives.

(3) The department shall annually collect and report cost data for every program operated or contracted by the department. The cost data shall conform to a format approved by the department and the Legislature. Uniform cost data shall be reported and collected for state-operated and contracted programs so that comparisons can be made among programs. The department shall ensure that there is accurate cost accounting for state-operated services including market-equivalent rent and other shared cost. The cost of the educational program provided to a residential facility shall be reported and included in the cost of a program. The department shall submit an annual cost report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and fiscal committees of each house of the Legislature, and the Governor, no later than December 1 of each year. Cost-benefit analysis for educational programs will be developed and implemented in collaboration with and in cooperation with the Department of Education, local providers, and local school districts. Cost data for the report shall include data collected by the Department of Education for the purposes of preparing the annual report required by s. 230.23161(21).

(4)(a) The Department of Juvenile Justice, in consultation with the Office of Economic and Demographic Research, and contract service providers, shall develop a cost-effectiveness model and apply the model to each commitment program. Program recidivism rates shall be a component of the model. The cost-effectiveness model shall compare program costs to client outcomes and program outputs. It is the intent of the Legislature that continual development efforts take place to improve the validity and reliability of the cost-effectiveness model and to integrate the standard methodology developed under s. 985.401(4) for interpreting program outcome evaluations.

(b) The department shall rank commitment programs based on the cost-effectiveness model and shall submit a report to the appropriate substantive and fiscal committees of each house of the Legislature by December 31 of each year.

(c) Based on reports of the department on client outcomes and program outputs and on the department's most recent cost-effectiveness rankings, the department may terminate a program operated by the department or a provider if the program has failed to achieve a minimum threshold of program effectiveness. This paragraph does not preclude the department from terminating a contract as provided under s. 985.412 or as otherwise provided by law or contract, and does not limit the department's authority to enter into or terminate a contract.

(d) In collaboration with the Office of Economic and Demographic Research, and contract service providers, the department shall develop a work plan to refine the cost-effectiveness model so that the model is consistent with the performance-based program budgeting measures approved by the Legislature to the extent the department deems appropriate. The department shall notify the Office of Program Policy Analysis and Government Accountability of any meetings to refine the model.

(e) Contingent upon specific appropriation, the department, in consultation with the Office of Economic and Demographic Research, and contract service providers, shall:

1. Construct a profile of each commitment program that uses the results of the quality assurance report required by s. 985.412, the cost-effectiveness report required in this subsection, and other reports available to the department.

2. Target, for a more comprehensive evaluation, any commitment program that has achieved consistently high, low, or disparate ratings in the reports required under subparagraph 1.

3. Identify the essential factors that contribute to the high, low, or disparate program ratings.

4. Use the results of these evaluations in developing or refining juvenile justice programs or program models, client outcomes and program outputs, provider contracts, quality assurance standards, and the cost-effectiveness model.

(5)~~(c)~~ The department shall:

(a)~~1.~~ Establish a comprehensive quality assurance system for each program operated by the department or operated by a provider under contract with the department. Each contract entered into by the department must provide for quality assurance.

(b)~~2.~~ Provide operational definitions of and criteria for quality assurance for each specific program component.

(c)~~3.~~ Establish quality assurance goals and objectives for each specific program component.

(d)~~4.~~ Establish the information and specific data elements required for the quality assurance program.

(e)~~5.~~ Develop a quality assurance manual of specific, standardized terminology and procedures to be followed by each program.

(f)~~6.~~ Evaluate each program operated by the department or a provider under a contract with the department and establish minimum thresholds for each program component. If a provider fails to meet the established minimum thresholds, such failure shall cause the department to cancel the provider's contract unless the provider achieves compliance with minimum thresholds within 6 months or unless there are documented extenuating circumstances. In addition, the department may not contract with the same provider for the canceled service for a period of 12 months. If a department-operated program fails to meet the established minimum thresholds, the department must take necessary and sufficient steps to ensure and document program changes to achieve compliance with the established minimum thresholds. If the department-operated program fails to achieve compliance with the established minimum thresholds within 6 months and if there are no documented extenuating circumstances, the department must notify the Executive Office of the Governor and the Legislature of the corrective action taken. Appropriate corrective action may include, but is not limited to:

1.~~a.~~ Contracting out for the services provided in the program;

2.~~b.~~ Initiating appropriate disciplinary action against all employees whose conduct or performance is deemed to have materially contributed to the program's failure to meet established minimum thresholds;

3.~~c.~~ Redesigning the program; or

4.~~d.~~ Realigning the program.

The department shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and fiscal committees of each house of the Legislature, and the Governor, no later than February 1 of each year. The annual report must contain, at a minimum, for each specific program component: a comprehensive description of the population served by the program; a specific description of the services provided by the program; cost; a comparison of expenditures to federal and state funding; immediate and long-range concerns; and recommendations to maintain, expand, improve, modify, or eliminate each program component so that changes in services lead to enhancement in program quality. The department shall ensure the reliability and validity of the information contained in the report.

(6)~~(2)~~ The department shall collect and analyze available statistical data for the purpose of ongoing evaluation of all programs. The department shall provide the Legislature with necessary information and reports to enable the Legislature to make informed decisions regarding the effectiveness of, and any needed changes in, services, programs, policies, and laws.

(7) No later than November 1, 2001, the department shall submit a proposal to the Legislature concerning funding incentives and disincentives for the department and for providers under contract with the department. The recommendations for funding incentives and disincentives shall be based upon both quality assurance performance and cost-effectiveness performance. The proposal should strive to achieve consistency in incentives and disincentives for both department-operated and contractor-provided programs. The department may include recommendations for the use of liquidated damages in the proposal; however, the department is not presently authorized to contract for liquidated damages.

Section 35. Subsection (1) of section 985.417, Florida Statutes, is amended to read:

985.417 Transfer of children from the Department of Corrections to the Department of Juvenile Justice.—

(1) When any child under the age of 18 years is sentenced by any court of competent jurisdiction to the Department of Corrections, the Secretary of Juvenile Justice may transfer such child to the department for the remainder of the sentence, or until his or her 21st birthday, whichever results in the shorter term. If, upon such person's attaining his or her 21st birthday, the sentence has not terminated, he or she shall be transferred to the Department of Corrections for placement in a youthful offender program*, transferred* ~~or, with the commission's consent,~~ to the supervision of the department, or be given any other transfer that may lawfully be made.

Section 36. Subsections (2) and (3) of section 14 of chapter 2000-134, Laws of Florida, are amended to read:

Section 14. Juvenile Arrest and Monitor Unit pilot program; creation; operation; duties of Orange County Sheriff's Office and Department of Juvenile Justice.—

(2) Under the pilot program created in subsection (1), the Orange County Sheriff's Office shall monitor selected juvenile offenders on *probation* ~~community control~~ in Orange County. The Department of Juvenile Justice shall recommend juvenile offenders on *probation* ~~community control~~, post-commitment *probation* ~~community control~~, and *conditional release* ~~aftercare~~ to be supervised under this program. The Orange County Sheriff's Office has the sole right and authority to accept or reject any or all juvenile offenders who have been recommended by the Department of Juvenile Justice to the Juvenile Arrest and Monitor Unit. The sheriff's office shall determine the number of juvenile offenders it will supervise. The Department of Juvenile Justice shall monthly recommend juvenile offenders to the sheriff's office, to ensure that the program operates at maximum capacity as determined by the sheriff's office. The Juvenile Arrest and Monitor Unit shall supervise up to 25 juveniles per deputy assigned to the unit. The Juvenile Arrest and Monitor Unit will accept juvenile offenders who have been determined by the Department of Juvenile Justice to be on *probation* ~~community control~~, post-commitment *probation* ~~community control~~, and *conditional release* ~~aftercare~~. The Orange County Sheriff's Office shall use all statutorily available means, ranging from a verbal warning to arrest and incarceration, to effect offenders' compliance with the terms of *probation* ~~community control~~.

(3) The Department of Juvenile Justice shall maintain all files and paperwork relating to all juveniles on *probation* ~~community control~~, post-commitment *probation* ~~community control~~, and *conditional release* ~~aftercare~~ who are supervised under this pilot program as required by the Florida Statutes.

Section 37. Section 985.42, Florida Statutes, is created to read:

985.42 Inspector general; inspectors.—The secretary is authorized to designate persons holding law enforcement certification within the Office of the Inspector General as law enforcement officers, as necessary, to enforce any criminal law, and conduct any criminal investigation that relates to state-operated programs or state-operated facilities over which the department has jurisdiction. Persons designated as law enforcement officers must be certified pursuant to s. 943.1395.

Section 38. Effective upon this act becoming a law, section 985.422, Florida Statutes, is created to read:

985.422 Maintenance of state-owned facilities.—

(1) If the terms of a provider contract require or allow the department to withhold a portion of the provider's payment to establish a fund for significant maintenance, repairs, or upgrades to state-owned or leased facilities, the department shall deposit all such withheld payments into the Administrative Trust Fund, which shall be used for such purposes pursuant to lawful appropriation.

(2) This section is repealed July 1, 2002.

Section 39. Paragraph (b) of subsection (4) of section 985.401, Florida Statutes, is amended to read:

985.401 Juvenile Justice Advisory Board.—

(4)

(b) In developing the standard methodology, the board shall consult with the department, the Office of Economic and Demographic Research, contract service providers, and other interested parties. It is the intent of the Legislature that this effort result in consensus recommendations, and, to the greatest extent possible, integrate the goals and legislatively approved measures of performance-based program budgeting provided in chapter 94-249, Laws of Florida, *and* the quality assurance program provided in s. 985.412~~, and the cost-effectiveness model provided in s. 985.404(11)~~. The board shall notify the Office of Program Policy Analysis and Government Accountability of any meetings to develop the methodology.

Section 40. *(1) The "Safety and Security Best Practices" developed by the Office of Program Policy Analysis and Government Accountability and approved by the Commissioner of Education shall be reviewed annually by the Office of Program Policy Analysis and Government Accountability and the Partnership for School Safety and Security established in s. 229.8347, Florida Statutes, and each entity shall make recommendations to the Commissioner of Education for the addition, revision, or deletion of best practices.*

(2) Each school district shall use the Safety and Security Best Practices to conduct a self-assessment of the school districts' current safety and security practices. Based on these self-assessment findings, the superintendent of each school district shall provide recommendations to the school board which identify strategies and activities that the school district should implement in order to improve school safety and security.

(3) By July 1, 2002, and annually thereafter, each school board must receive the self-assessment results at a publicly notice school board meeting to provide the public an opportunity to hear the school board members discuss and take action on the report findings. Each superintendent shall report the self-assessment results and school board action to the Commissioner of Education within 30 days following the school board meeting.

Section 41. *Subsections (10) and (11) of section 985.404, Florida Statutes, are repealed.*

Section 42. Except as otherwise provided herein, this act shall take effect October 1, 2001.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to juvenile justice; amending s. 20.316, F.S.; revising the juvenile justice continuum to include community-based residential commitment programs; deleting a requirement that information systems of the Department of Juvenile Justice support the Juvenile Justice Advisory

Board; amending s. 228.041, F.S.; authorizing additional teacher planning days for nonresidential programs of the Department of Juvenile Justice upon the request of the provider; amending s. 230.23161, F.S.; providing legislative goals with respect to education within department programs; amending s. 230.235, F.S.; requiring schools to adopt a policy of zero tolerance for victimization of students; requiring each school district to enter into an agreement with the Department of Juvenile Justice for the purpose of protecting victims; amending s. 231.0851, F.S.; requiring principals to take certain actions when a student has been a victim of a violent crime perpetrated by another student; providing ineligibility for certain performance pay policy incentives under certain circumstances; creating s. 232.265, F.S.; requiring the Department of Juvenile Justice to provide certain notice to school districts under certain circumstances; prohibiting certain persons from attending certain schools or riding on certain school buses under certain circumstances; providing for attending alternate schools; assigning responsibility for certain transportation under certain circumstances; amending s. 435.04, F.S.; revising requirements for level-2 screening standards for persons in positions of trust or responsibility; providing requirements for background investigations for employees of the Department of Juvenile Justice; limiting the department's authority to provide an exemption; creating s. 943.0582, F.S.; providing for prearrest, postarrest, or teen court diversion program expunction in certain circumstances; providing for retroactive effect; amending s. 960.001, F.S.; providing an additional guideline for attendance of a victim at the same school as a juvenile defendant; amending s. 985.228, F.S.; requiring certain court orders to include certain findings; amending s. 985.23, F.S.; requiring a court to determine the appropriateness of a no contact order under certain circumstances; amending s. 943.325, F.S.; requiring DNA analysis of persons who have committed certain offenses and who are transferred to the state under the Interstate Compact on Juveniles; amending ss. 984.01 and 985.01, F.S., relating to personnel standards and screening; requiring the Department of Juvenile Justice and the Department of Children and Family Services to ensure that certain contractors are of good moral character; amending s. 985.02, F.S.; clarifying legislative intent concerning the responsibilities of parents, custodians, and guardians of children in the juvenile justice system; amending s. 985.03, F.S.; revising definitions; defining the term "respite" for purposes of ch. 985, F.S.; amending s. 985.04, F.S.; providing that certain records maintained by the Department of Juvenile Justice need only be retained for 25 years; expanding the circumstances under which certain juvenile records are not considered confidential and exempt solely because of age; amending ss. 985.207 and 985.213, F.S.; clarifying circumstances under which a juvenile is taken into custody and assessed for placement; requiring the parent or guardian to provide certain information; amending s. 985.21, F.S.; requiring the parent or guardian of a juvenile to provide certain information to the juvenile probation officer; amending s. 985.215, F.S.; revising provisions related to the collection of certain fees; authorizing placing a juvenile into secure detention under certain circumstances for a specified period; authorizing the clerk of the circuit court to act as depository for fees; requiring the parent or guardian to provide certain information; providing for retroactive effect; amending s. 985.227, F.S.; revising requirements for state attorneys with respect to reporting direct-file guidelines; amending ss. 985.231 and 985.233, F.S.; requiring a court placement order or a commitment order to include certain findings; revising certain requirements for testing a juvenile for the use of alcohol or controlled substances; revising provisions related to the collection of certain fees; authorizing the clerk of the circuit court to act as depository for fees; requiring the parent or guardian to provide certain information; providing for retroactive effect; amending s. 985.305, F.S.; revising services provided under the early delinquency intervention program; amending s. 985.3065, F.S.; providing for postarrest diversion programs; providing for expunction of records; amending s. 985.31, F.S., relating to serious or habitual juvenile offenders; conforming provisions to changes made by the act; amending s. 985.3155, F.S.; revising requirements for the multiagency plan for vocational education; amending s. 985.316, F.S.; revising conditions under which a juvenile may be released on conditional release; amending s. 985.404, F.S.; providing legislative intent with regard to contracting with faith-based organizations that provide services to juveniles; clarifying conditions under which a juvenile may be transferred; deleting language relating to the collection and reporting of cost data and program ranking; amending s. 985.412, F.S.; adding requirements relating to the collection and reporting of cost data and program ranking; requiring the Department of Juvenile Justice to submit proposals for funding incentives and disincentives based upon quality assurance performance and cost-effectiveness performance to the Legislature by a date certain; amending s. 985.417, F.S.; revising conditions for transferring a juvenile from the Department of Corrections to the supervision of the Department of Juvenile Justice; amending s. 14 of ch. 2000-134, Laws of Florida; revising requirements for monitoring and supervising juvenile offenders under a pilot program; creating s. 985.42, F.S.; authorizing the secretary to designate certain employees as law enforcement officers; creating s. 985.422, F.S.; authorizing the deposit of repair and maintenance funds into the Administrative Trust Fund; amending s. 985.401, F.S., to conform; requiring the Office of Program Policy Analysis and Government Accountability to annually review certain safety and security best practices; requiring school districts to use such practices to conduct certain assessments; requiring school district superintendents to make certain recommendations to school boards based on such assessments; requiring school boards to hold public meetings on the assessments and recommendations; repealing s. 985.404(10) and (11), F.S., relating to an annual cost data collection and reporting program of the Department of Juvenile Justice and cost-effectiveness model development and application to commitment programs of the department; providing effective dates.

Rep. Barreiro moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/CS/HB 267. The vote was:

Session Vote Sequence: 340

Yeas—118

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

Nays—None

Votes after roll call:
Yeas—Bennett

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Byrd, the House moved to the consideration of CS/HB 337.

CS/HB 337—A bill to be entitled An act relating to public libraries; amending s. 257.17, F.S.; extending the repeal date of a provision authorizing operating grants; requiring the Division of Library and Information Services to facilitate the extension of free library services through interlocal agreement; requiring reports; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 341

Yeas—119

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

CS/HB 345—A bill to be entitled An act relating to sports industry economic development projects; amending s. 212.20, F.S.; providing for the Department of Revenue to distribute sales tax reimbursements to certified sports industry economic development projects under certain circumstances; amending s. 213.053, F.S.; extending the current information sharing with the Office of Tourism, Trade, and Economic Development to include the sales tax reimbursement program for certified sports industry economic development projects; creating s. 288.113, F.S.; creating a tax reimbursement program for certified sports industry economic development projects; providing legislative findings and declarations; providing definitions; providing eligibility criteria for amateur sports businesses; prescribing the terms and amounts of tax reimbursements; providing a certification procedure, to be established and administered by the Office of Tourism, Trade, and Economic Development; providing for periodic recertification; abating or reducing funding in specified circumstances; providing a maximum number of years for which an amateur sports business may be certified; providing for decertification; providing a penalty for falsifying an application; providing for a tax reimbursement agreement and prescribing terms of the agreement; providing for annual claims for reimbursement; providing duties of the Department of Revenue; providing for administration of the program; providing for recordkeeping and submission of an annual report to the Legislature; amending s. 288.1229, F.S.; providing an additional purpose for which the Office of Tourism, Trade, and Economic Development may authorize a direct-support organization to assist the office; providing for the creation of new jobs in this state; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 342

Yeas—116

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

Nays—None

Votes after roll call:
Yeas—Lynn

So the bill passed, as amended, and was immediately certified to the Senate.

CS/HB 455—A bill to be entitled An act relating to mortgage brokering and lending; amending s. 494.001, F.S.; defining the term "principal representative"; creating s. 494.00295, F.S.; providing license renewal educational requirements for licensees and principal representatives; amending s. 494.00311, F.S.; expanding the scope of mortgage business schools to include training for certain other persons; amending s. 494.0034, F.S.; adding continuing education requirements for mortgage broker license renewal; amending s. 494.0035, F.S.; requiring brokerage experience requirements for principal brokers; amending s. 494.0061, F.S.; providing educational requirements for mortgage lenders and principal representatives; requiring the designation of a principal representative; requiring testing of such persons; amending s. 494.0062, F.S.; providing educational requirements for correspondent mortgage lenders; requiring the designation of a principal representative; requiring the testing of such persons; amending s. 494.0064, F.S.; requiring licensees to submit certification of completion of certain educational requirements by certain persons; amending s. 494.0067, F.S.; requiring licensees to require loan originators and associates to complete certain continuing education programs; requiring licensees to maintain certain records; providing effective dates.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 343

Yeas—112

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

Nays—4

Haridopolos	Hart	Kyle	Mack

Votes after roll call:
Yeas to Nays—Baker

So the bill passed, as amended, and was immediately certified to the Senate.

On motion by Rep. Lee, consideration of **HB 457** was temporarily postponed under Rule 11.10.

On motion by Rep. Baker, consideration of **HB 575** was temporarily postponed under Rule 11.10.

On motion by Rep. Byrd, the rules were waived and the House moved to the order of—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for CS for SB 1346 and CS for SB 1568; passed CS for CS for SB 1880, as amended; passed CS for SB 2174; passed SBs 1148 and 1766, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committees on Appropriations, Children and Families and Senator Saunders—

CS for CS for SB 1346—A bill to be entitled An act relating to behavioral health care service; amending s. 394.66, F.S.; providing legislative intent; creating s. 394.741, F.S.; requiring the Agency for Health Care Administration and the Department of Children and Family Services to accept accreditation in lieu of its administrative and program monitoring under certain circumstances; amending s. 394.90, F.S.; requiring the Agency for Health Care Administration to accept accreditation in lieu of its onsite licensure reviews; amending s. 397.411, F.S.; requiring the Department of Children and Family Services to accept accreditation in lieu of its onsite licensure reviews; amending s. 397.403, F.S.; conforming provisions; creating s. 394.499, F.S.; authorizing the Department of Children and Family Services, in consultation with the Agency for Health Care Administration, to establish children's behavioral crisis unit demonstration models to provide integrated emergency mental health and substance abuse services to persons under 18 years of age at facilities licensed as children's crisis stabilization units; providing for standards, procedures, and requirements for services; providing eligibility criteria; requiring the department to report on the initial demonstration models; providing for expanding the demonstration models; providing for independent evaluation and report; providing rulemaking authority; providing an effective date.

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

By the Committee on Banking and Insurance and Senator Sebesta and others—

CS for SB 1568—A bill to be entitled An act relating to health care service programs; amending s. 641.51, F.S.; requiring that only certain physicians licensed in this state may render adverse determinations for health maintenance organizations and prepaid health clinics; clarifying the authority of the Board of Medicine and the Board of Osteopathic Medicine; providing an effective date.

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

By the Committees on Judiciary, Commerce and Economic Opportunities and Senator Klein—

CS for CS for SB 1880—A bill to be entitled An act relating to corporations; amending s. 607.01401, F.S.; redefining the term "electronic transmission" to include telegrams, cablegrams, telephone transmissions, and transmissions through the Internet for purposes of proxy voting; amending s. 607.0722, F.S.; specifying those persons who may vote on behalf of a shareholder; authorizing the appointment of a proxy by electronic transmission; deleting provisions limiting the period during which an appointment of proxy is irrevocable; authorizing the use of certain copies or reproductions in lieu of the original writing or electronic transmission; authorizing a corporation to adopt bylaws authorizing additional procedures for shareholders to use in exercising certain rights; amending s. 15.16, F.S.; authorizing the department to discount a filing fee in an amount equal to the convenience charge imposed for an electronic record filing by way of a contractor; amending s. 607.193, F.S.; waiving the charge for late filings of supplemental corporate fees when the business entity did not receive the uniform business report prescribed by the department; providing an effective date.

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

By the Committee on Banking and Insurance and Senator Holzendorf—

CS for SB 2174—A bill to be entitled An act relating to insurance; amending s. 624.318, F.S.; requiring access to records by the department; repealing s. 624.501(11) and (23), F.S.; repealing provisions establishing specified fees; amending s. 626.112, F.S.; prohibiting certain activities that constitute solicitation of insurance by unlicensed persons; amending s. 626.171, F.S.; revising agent application requirements; amending s. 626.181, F.S.; extending a period of eligibility for reappointment; creating s. 626.202, F.S.; requiring fingerprinting of specified persons; amending s. 626.431, F.S.; extending the nonappointment period to 48 months; amending s. 626.521, F.S.; requiring certain information upon demand of the department; amending s. 626.541, F.S.; requiring notification to the department of certain name changes and other information; amending s. 626.5715, F.S.; removing a requirement that the Department of Insurance adopt rules to assure parity of regulation; providing that the Insurance Code

applies to all transactions; amending s. 626.601, F.S.; revising a confidentiality provision; amending s. 626.611, F.S.; prohibiting the sale of unregistered securities; amending ss. 626.741, 626.792, 626.835, F.S.; limiting the authority of certain nonresident licenses to that granted by the resident state; amending s. 626.8427, F.S.; revising provisions governing the duration of licenses; amending s. 626.856, F.S.; revising the definition of the term "company employee adjuster"; amending s. 626.872, F.S.; limiting the term of a temporary adjuster's license; amending s. 626.873, F.S.; revising a catchline regarding nonresident company adjusters; amending s. 627.927; limiting an experience requirement for surplus lines agents; extending a renewal grace period; creating s. 626.9531, F.S.; requiring the identification of certain persons in advertisements and other communications; amending ss. 648.315, 648.38, 648.384, F.S.; extending a period of eligibility for reappointment; creating s. 626.9651, F.S.; requiring the Department of Insurance to adopt rules governing the use of a consumer's nonpublic personal financial and health information; providing standards for the rules; providing an effective date.

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

By Senator Crist—

SB 1148—A bill to be entitled An act relating to corrections; revising provisions relating to leased or managed work programs to conform to current operations and applications; amending ss. 946.502, 946.5025, 946.5026, 946.503, 946.506, 946.509, 946.511, 946.514, 946.516, 946.518, 946.520, F.S.; conforming internal cross-references; deleting obsolete provisions; clarifying a definition; changing a reporting date; amending s. 957.04, F.S., to conform a cross-reference; providing a declaration of important state interest; creating s. 946.525, F.S.; establishing participation requirements; amending s. 948.09, F.S.; revising the amount of the surcharge paid to the Department of Corrections by offenders placed on community control; providing an effective date.

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

By Senator Crist—

SB 1766—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; exempting from disclosure under s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, certain information pertaining to county and municipal code enforcement officers and their families; providing for future repeal and prior legislative review of these exemptions; providing a statement of public necessity for the exemptions; amending s. 119.07, F.S.; expanding the exemption for code enforcement officers to include additional information and to include such officers' spouses and children; providing for future review and repeal; providing findings of public necessity; providing an effective date.

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

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for CS for SB 366, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committees on Appropriations, Criminal Justice and Senators Villalobos and Smith—

CS for CS for SB 366—A bill to be entitled An act relating to DNA evidence; creating s. 925.11, F.S.; providing for the examination of DNA evidence collected at the time a crime is investigated; providing a procedure under which a defendant who has been found guilty may petition the trial court to order an examination of DNA evidence; providing guidelines for seeking postsentencing DNA testing; requiring that the court make certain findings; providing for preservation of evidence for which testing of DNA may be requested; providing for right to appeal; creating s. 943.3251, F.S.; prescribing duties of the Department of Law Enforcement with respect to postsentencing DNA testing; amending s. 943.325, F.S.; requiring the Department of Law Enforcement to add certain felony offenses in a scheduled order to the DNA data bank's enumerated offenses; requiring the Department of Corrections to test certain violent felons in addition to those enumerated in the statute before being released from custody; providing effective dates.

—was read the first time by title.

On motion by Rep. Ball, the rules were waived, and CS for CS for SB 366 was substituted for CS/HB 147. Under Rule 5.15, the House bill was laid on the table. On motion by Rep. Ball, the rules were waived and CS for CS for SB 366 was read the second time by title and the third time by title. On passage, the vote was:

Session Vote Sequence: 344

Yeas—118

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

Nays—None

So the bill passed and was immediately certified to the Senate.

Continuation of Bills and Joint Resolutions on Third Reading

Reconsideration of CS/CS/HB 267

On motion by Rep. Lynn, the House reconsidered the vote by which **CS/CS/HB 267**, as amended, passed earlier today.

CS/CS/HB 267—A bill to be entitled An act relating to school attendance by violent offenders; amending s. 230.235, F.S.; requiring schools to adopt a policy of zero tolerance for victimization of students; requiring each school district to enter into an agreement with the Department of Juvenile Justice for the purpose of protecting victims; amending s. 231.0851, F.S.; requiring principals to take certain actions when a student has been a victim of a violent crime perpetrated by another student; providing ineligibility for certain performance pay policy incentives under certain circumstances; creating s. 232.265, F.S.;

requiring the Department of Juvenile Justice to provide certain notice to school districts under certain circumstances; prohibiting certain persons from attending certain schools or riding on certain school buses under certain circumstances; providing for attending alternate schools; assigning responsibility for certain transportation under certain circumstances; amending s. 960.001, F.S.; providing an additional guideline for attendance of a victim at the same school as a juvenile defendant; amending s. 985.228, F.S.; requiring certain court orders to include certain findings; amending s. 985.23, F.S.; requiring a court to determine the appropriateness of a no contact order under certain circumstances; amending ss. 985.231 and 985.233, F.S.; requiring a court placement order or a commitment order to include certain findings; providing an effective date.

The question recurred on the passage of CS/CS/HB 267.

Representative(s) Byrd and Lynn offered the following:

(Amendment Bar Code: 060947)

Amendment 3 (with title amendment)—On page 2, line 6,

insert:

Section 1. *(1) The "Safety and Security Best Practices" developed by the Office of Program Policy Analysis and Government Accountability and approved by the Commissioner of Education shall be reviewed annually by the Office of Program Policy Analysis and Government Accountability and the Partnership for School Safety and Security established in s. 229.8347, Florida Statutes, and each entity shall make recommendations to the Commissioner of Education for the addition, revision, or deletion of best practices.*

(2) Each school district shall use the Safety and Security Best Practices to conduct a self-assessment of the school districts' current safety and security practices. Based on these self-assessment findings, the superintendent of each school district shall provide recommendations to the school board which identify strategies and activities that the school district should implement in order to improve school safety and security.

(3) By July 1, 2002, and annually thereafter, each school board must receive the self-assessment results at a publicly notice school board meeting to provide the public an opportunity to hear the school board members discuss and take action on the report findings. Each superintendent shall report the self-assessment results and school board action to the Commissioner of Education within 30 days following the school board meeting.

Section 2. Subsection (1) of section 230.23161, Florida Statutes, is amended to read:

230.23161 Educational services in Department of Juvenile Justice programs.—

(1) The Legislature finds that education is the single most important factor in the rehabilitation of adjudicated delinquent youth in the custody of the Department of Juvenile Justice in detention or commitment facilities. It is the *goal* ~~intent~~ of the Legislature that youth in the juvenile justice system *continue to receive a high-quality* ~~be provided with equal opportunity and access to quality and effective~~ education ~~that will meet the individual needs of each child~~. The Department of Education shall serve as the lead agency for juvenile justice education programs*,* ~~to ensure that~~ curriculum, support services, and resources ~~are provided to maximize the public's investment in the custody and care of these youth~~. To this end, the Department of Education and the Department of Juvenile Justice shall each designate a Coordinator for Juvenile Justice Education Programs to serve as the point of contact for resolving issues not addressed by local district school boards and to *provide* ~~ensure~~ each department's participation in the following activities:

(a) Training, collaborating, and coordinating with the Department of Juvenile Justice, local school districts, educational contract providers, and juvenile justice providers, whether state operated or contracted.

(b) Collecting information on the academic performance of students in juvenile justice commitment and detention programs and reporting on the results.

(c) Developing academic and vocational protocols that provide guidance to school districts and providers in all aspects of education programming, including records transfer and transition.

(d) Prescribing the roles of program personnel and interdepartmental local school district or provider collaboration strategies.

Annually, a cooperative agreement and plan for juvenile justice education service enhancement shall be developed between the Department of Juvenile Justice and the Department of Education and submitted to the Secretary of Juvenile Justice and the Commissioner of Education by June 30.

And the title is amended as follows:

On page 1, line 3, before the word amending,

insert: requiring the Office of Program Policy Analysis and Government Accountability to annually review certain safety and security best practices; requiring school districts to use such practices to conduct certain assessments; requiring school district superintendents to make certain recommendations to school boards based on such assessments; requiring school boards to hold public meetings on the assessments and recommendations amending s. 230.23161, F.S.; providing legislative goals with respect to education within department programs;

Rep. Lynn moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/CS/HB 267. The vote was:

Session Vote Sequence: 345

Yeas—117

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

Nays—None

Votes after roll call:

Yeas—Alexander, Lynn, Trovillion

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 575 was taken up. On motion by Rep. Baker, the rules were waived and—

CS for CS for SB 1880—A bill to be entitled An act relating to corporations; amending s. 607.01401, F.S.; redefining the term "electronic transmission" to include telegrams, cablegrams, telephone transmissions, and transmissions through the Internet for purposes of proxy voting; amending s. 607.0722, F.S.; specifying those persons who may vote on behalf of a shareholder; authorizing the appointment of a proxy by electronic transmission; deleting provisions limiting the period during which an appointment of proxy is irrevocable; authorizing the use of certain copies or reproductions in lieu of the original writing or electronic transmission; authorizing a corporation to adopt bylaws authorizing additional procedures for shareholders to use in exercising certain rights; amending s. 15.16, F.S.; authorizing the department to discount a filing fee in an amount equal to the convenience charge imposed for an electronic record filing by way of a contractor; amending s. 607.193, F.S.; waiving the charge for late filings of supplemental corporate fees when the business entity did not receive the uniform business report prescribed by the department; providing an effective date.

—was substituted for HB 575 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Baker, the rules were waived and CS for CS for SB 1880 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 346

Yeas—119

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

Nays—None

So the bill passed and was immediately certified to the Senate.

CS/HB 605—A bill to be entitled An act relating to health care facilities and programs; creating the "Florida Alzheimer's Training Act"; creating ss. 400.1755, 400.4786, 400.55715, and 400.626, F.S., and amending s. 400.6045, F.S.; prescribing training standards for employees of nursing homes, home health agencies, nurse registries, hospice programs, adult day care centers, and adult family-care homes, respectively, that provide care for persons with Alzheimer's disease or related disorders; prescribing duties of the Department of Elderly Affairs; providing rulemaking authority; providing timeframe for compliance; authorizing the Department of Elderly Affairs to contract for review of trainers and training materials; providing for costs; providing that a community care service system shall contain a dementia-specific care provider network; encouraging inclusion of certain training in healing arts curricula; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 347

Yeas—118

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

Nays—None

Votes after roll call:
Yeas—Kendrick

So the bill passed, as amended, and was immediately certified to the Senate.

HB 635—A bill to be entitled An act relating to drivers' licenses; creating s. 322.0515, F.S.; providing for compliance with federal requirements by certain applicants for drivers' licenses or identification cards; directing the Department of Highway Safety and Motor Vehicles to forward certain information to the federal Selective Service System with respect to certain applicants; providing described notice to applicants; directing the department to include a described statement on certain applications for drivers' licenses or identification cards; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 348

Yeas—120

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

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 645—A bill to be entitled An act relating to alcoholic beverages; amending s. 561.501, F.S.; providing an exemption from the surcharge on alcoholic beverages for specified nonprofit organizations; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 349

Yeas—119

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

Nays—None

Votes after roll call:
Yeas to Nays—Cusack

So the bill passed and was immediately certified to the Senate.

CS/CS/HB 807—A bill to be entitled An act relating to the Department of Highway Safety and Motor Vehicles; amending s. 320.08056, F.S.; increasing the fee for the Florida educational license plate; creating s. 860.146, F.S.; defining the terms "fake airbag" and "junk-filled airbag compartment"; prohibiting the sale, purchase, or installation of fake airbags or junk-filled airbag compartments; providing criminal penalties; amending s. 322.056, F.S.; authorizing the court to direct the Department of Highway Safety and Motor Vehicles to issue a driver's license restricted to business or employment purposes only to certain persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; amending s. 316.003, F.S.; providing that certain vehicles of the Department of Health are authorized emergency vehicles; providing that a motorized scooter is not a motor vehicle for traffic control purposes; creating a definition of the term motorized scooter; amending s. 316.006, F.S.; authorizing the installation of multiparty stop signs on certain roads; providing guidelines for the installation of such signage; amending s. 316.1951, F.S.; revising provisions related to parking vehicles to display for sale; amending s. 316.1975, F.S.; exempting operators of solid waste and recovered materials vehicles from provisions regarding unattended motor vehicles; amending s. 316.2065, F.S.; providing motorized scooter operating regulations; amending s. 316.228, F.S.; requiring strobe lights to be placed on the exterior of a commercial vehicle transporting unprocessed forest products extending more than 4 feet beyond the rear of the vehicle; providing an alternate method for placing strobe lights in certain instances; requiring the use of a red flag on the load; amending s. 316.2397, F.S.; authorizing the emergency response vehicles of the Department of Health to use red flashing lights; amending s. 316.520, F.S.; clarifying that a violation of a provision governing loads on vehicles is a moving rather than a nonmoving violation; exempting certain vehicles carrying agricultural products; amending s. 316.640, F.S.; revising the powers and duties of traffic crash investigation officers; amending s. 316.650, F.S.; requiring the issuance of a copy of the traffic school reference guide with traffic citations under certain circumstances; amending s. 318.14, F.S.; deleting reference to a restriction on the number of elections a person may make to attend a basic driver improvement course; amending s. 318.1451, F.S.; providing an assessment fee with respect to driver improvement courses for persons who are ordered by the court to attend and for certain other violations; providing traffic school reference guide requirements; amending s. 322.0261, F.S.; deleting reference to a time period and increasing the amount of damage required with respect to a crash for the screening of certain crash reports; requiring the Department of Highway Safety and Motor Vehicles to approve and regulate certain courses for driver improvement schools; creating s. 322.02615, F.S.; providing for mandatory driver improvement courses for certain violations; amending s. 319.001, F.S.; providing definitions; amending s. 319.14, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to place a decal on a rebuilt vehicle so as to clarify its identity; providing a penalty for the removal of the decal; amending s. 319.22, F.S.; providing a limitation on an action challenging the validity of a certificate of title issued pursuant to ch. 319, F.S.; amending s. 319.23, F.S.; providing a limitation on the issuance of certain titles; amending s. 319.27, F.S.; including reference to ownership interest with respect to liens on motor vehicles or mobile homes; providing special requirements with respect to an ownership interest which is different from that shown on an application for certificate of title; creating s. 319.275, F.S.; providing for interpleader actions for law enforcement officers alleging

possession of a stolen motor vehicle by a good faith purchaser or person duly issued a certificate of title; amending s. 319.32, F.S.; clarifying fees for recording of liens and ownership interests; amending s. 319.323, F.S.; revising language with respect to expedited service on title transfers; amending s. 319.23, F.S.; conforming the requirements for the transfer of ownership on an antique vehicle to that of any other motor vehicle; amending s. 319.28, F.S.; deleting the requirement that a copy of a contract for processing an application for title based on a contractual default be provided; amending s. 319.30, F.S.; clarifying the major component parts of a motor vehicle; amending s. 320.01, F.S.; conforming the length limitation for a motor home to that established in ch. 316, F.S.; providing that a motorized scooter is not a motor vehicle for registration purposes; amending s. 320.02, F.S.; requiring application forms for motor vehicle registration and renewal of registration to include language permitting a voluntary contribution to certain organizations; amending s. 320.023, F.S.; requiring certain organizations receiving voluntary check-off contributions to notify the department under certain circumstances and to meet specified requirements; conforming the section to the Florida Single Audit Act; requiring organizations seeking authorization to establish a voluntary check-off contribution on a motor vehicle registration application to conform to the requirements of ch. 496, F.S.; conforming this section to the Florida Single Audit Act; amending s. 320.025, Florida Statutes, conforming the vessel registration law to the motor vehicle registration law; requiring a decal to be affixed to a vessel that is registered under a fictitious name and operated by any law enforcement agency; amending s. 320.05, F.S.; conforming the vessel registration law to the motor vehicle registration law; providing instructions for the release of information regarding a vessel to the public; amending s. 320.055, F.S.; correcting the registration period for nonapportioned vehicles; amending s. 320.06, F.S.; providing for the placement of only one decal rather than two on a license plate; amending s. 320.072, F.S.; reducing the timeframe a registrant can use a previous license plate for the initial registration fee exemption; amending s. 320.0805, F.S.; reducing the timeframe for a personalized license plate to remain out of circulation prior to reassignment; amending s. 320.08056, F.S.; requiring certain organizations to notify the department under certain circumstances; including two more colleges to the discontinuance exemptions provided for collegiate specialty license plates; amending s. 320.08062, F.S.; conforming this section to the Florida Single Audit Act; amending s. 320.083, F.S.; increasing the weight restriction for a private-use vehicle so as to be eligible to apply for the Amateur Radio Operator specialty license plate; amending s. 320.089, F.S.; increasing the weight restriction for a private-use vehicle so as to be eligible to apply for the EX-POW or Purple Heart specialty license plate; amending s. 320.18, F.S.; providing for cancellation of license plates and fuel use tax decals for failure to pay motor carrier weight and safety violation penalties; amending s. 320.27, F.S.; redefining the term "motor vehicle auction"; deleting the requirement for a licensee to have the certificate of title or ownership indicia in his or her possession at an auction; deleting a requirement for establishing a pattern of wrongdoing; revising requirements for denial, suspension, or revocation of a motor vehicle dealer license; amending s. 320.60, F.S.; revising definitions used in ss. 320.61-320.70, F.S.; amending s. 320.61, F.S.; amending procedures to be followed when a complaint of unfair cancellation of a dealer agreement has been made by a motor vehicle dealer against a licensee; defining the term "final decision"; amending s. 320.64, F.S.; providing penalties and remedies for violations; deleting subsections (13) and (16); amending subsection (18); creating subsections (22) through (32) and renumbering sections; amending s. 320.641, F.S.; providing procedures relating to discontinuations, cancellations, nonrenewals, modifications, and replacements of franchise agreements; amending s. 320.643, F.S.; amending provisions relating to the transfer, assignment, or sale of franchise agreements; amending s. 320.645, F.S.; amending provisions relating to restrictions upon a licensee's owning a dealership; providing for "dealer development arrangements"; providing exceptions; amending s. 320.699, F.S.; amending procedures for administrative hearings; creating s. 320.6991; providing for severability; amending s. 320.691 F.S.; creating the Automobile Dealers Industry Advisory Board; amending s. 322.01, F.S.; providing that a motorized scooter is not a motor vehicle for drivers' licensing purposes; amending s. 322.05, F.S.; correcting a statutory reference regarding the requirements for an individual under 18 years of age to apply for a driver's license; amending s. 322.081, F.S.; requiring certain organizations receiving voluntary check-off contributions to notify the department under certain circumstances and to meet specified requirements; conforming the section to the Florida Single Audit Act; requiring organizations seeking authorization to establish a voluntary contribution on a motor vehicle registration to register with the Department of Agriculture and Consumer Services; amending s. 322.095, F.S.; requiring the Department of Highway Safety and Motor Vehicles to approve and regulate certain courses for driver improvement schools; creating s. 322.222, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to hold a hearing when an individual's driver's license has been suspended or revoked due to medical reasons; amending s. 322.25, F.S.; correcting a cross reference; amending s. 322.2615, F.S.; complying with the USDOT's drunk driving prevention incentive program; reducing the timeframe for a temporary permit that is allotted when an individual is charged with driving with an unlawful blood-alcohol level; amending s. 322.27, F.S.; clarifying the time period for a driver's license revocation of a habitual traffic offender; amending s. 322.28, F.S.; deleting obsolete language regarding the revocation of a driver's license; repealing s. 322.282, F.S., relating to the procedure when the court revokes or suspends license or driving privilege and orders reinstatement; amending s. 322.292, F.S.; adding the requirement that DUI programs must be governmental programs or not-for-profit corporations; amending s. 322.61, F.S.; complying with the Federal Motor Carrier Safety Regulations; adding two more violations for which a commercial motor vehicle may be disqualified of driving privileges; amending s. 322.64, F.S.; reducing the timeframe for a temporary permit allotted when an individual holding a commercial driver's license is charged with an unlawful blood-alcohol level; repealing s. 322.331, F.S., relating to the reinstatement of a license of a habitual traffic offender; creating the Driver Licensing Study Commission within the Department of Highway Safety and Motor Vehicles; providing for membership and appointment; providing for staff; providing for duties of the commission; providing for dissolution of the commission upon submission of a required report; providing an appropriation; amending s. 324.091, F.S.; providing for electronic access to vehicle insurance information; amending s. 328.01, F.S.; deleting the requirement for a copy of a contract upon which a claim of ownership of a vessel is made on a contractual default; amending s. 328.42, F.S.; authorizing the department to deny or cancel any vessel registration, license plate, or fuel use decal when given a dishonored check by the customer; amending s. 328.56, F.S.; deleting the terms "commercial" and "recreational" when referring to vessels operated on the waters of this state; amending s. 328.72, F.S.; deleting the requirements for the transfer of ownership of an antique vessel; amending s. 328.76, F.S.; providing for the appropriation allotted for fiscal year 2000-2001 to be deposited into the Highway Safety Operating Trust Fund; amending s. 713.78, F.S.; adding the insurance company to the list of individuals to be contacted when a vehicle has been towed; providing storage periods before the expiration of which certain salvaged vehicles may not be sold; repealing s. 715.05, F.S., relating to the reporting of unclaimed motor vehicles; amending ss. 681.1096 and 681.1097, F.S.; revising program requirements for the Pilot RV Mediation and Arbitration program; amending s. 681.115, F.S.; providing that a motor vehicle sales agreement which prohibits disclosure of its terms is void; amending s. 715.07, F.S.; conforming the vessel registration law to the motor vehicle registration law; defining the term "vessel"; authorizing the removal of an undocumented vessel parked on private property; amending s. 832.09, F.S.; authorizing the department to create a standardized form to be used for notification of satisfaction of a worthless check; amending s. 212.08, F.S.; providing additional requirements on vehicle tax assessments; creating ch. 261, F.S.; creating the T. Mark Schmidt Off-Highway-Vehicle Safety and Recreation Act; providing legislative intent; providing definitions; creating the Off-Highway-Vehicle Recreation Advisory Committee; providing duties and responsibilities; providing for duties and responsibilities of the Department of Agriculture and Consumer Services; providing for rulemaking authority; providing for the publication and distribution of a guidebook; providing for the repair, maintenance, and rehabilitation of areas, trails, and lands; providing for contracts and agreements; providing criteria for

recreation areas and trails; providing for the use of designated off-highway-vehicle funds within the Incidental Trust Fund of the Division of Forestry, Department of Agriculture and Consumer Services; amending s. 316.2074, F.S.; revising the definition of the term "all-terrain vehicle"; prohibiting the use of all-terrain vehicles on public roadways in the state; creating the Florida Off-Highway-Vehicle Titling and Registration Act; providing legislative intent; providing definitions; providing for administration by the Department of Highway Safety and Motor Vehicles; providing for rules, forms, and notices; requiring certificates of title; providing for application for and issuance of certificates of title; providing for duplicate certificates of title; requiring the furnishing of a manufacturer's statement of origin; requiring registration; providing for application for and issuance of certificate of registration, registration number, and decal; providing for the registration period and for reregistration by mail; requiring notification of change of interest and address; providing for duplicate registration certificate and decal; providing for fees; providing for disposition of fees; providing for refusal to issue and authority to cancel a certificate of title or registration; providing for crimes relating to certificates of title and registration decals; providing penalties; providing for noncriminal infractions; providing penalties; amending s. 375.315, F.S., relating to the registration of off-road vehicles; providing an appropriation; amending ss. 316.605, 318.14, 318.18, and 322.121, F.S.; correcting cross references; providing effective dates.

—was read the third time by title.

Representative(s) Gardiner offered the following:

(Amendment Bar Code: 145343)

Amendment 14 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Subsections (1) and (21) of section 316.003, Florida Statutes, are amended, and subsection (82) is added to said section, to read:

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

(1) AUTHORIZED EMERGENCY VEHICLES.—Vehicles of the fire department (fire patrol), police vehicles, and such ambulances and emergency vehicles of municipal departments, public service corporations operated by private corporations, the Department of Environmental Protection, *the Department of Health,* and the Department of Transportation as are designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any of the various counties.

(21) MOTOR VEHICLE.—Any self-propelled vehicle not operated upon rails or guideway, but not including any bicycle*, motorized scooter,* or moped.

(82) MOTORIZED SCOOTER.—Any vehicle not having a seat or saddle for the use of the rider, designed to travel on not more than three wheels, and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground.

Section 2. Subsections (2) and (3) of section 316.006, Florida Statutes, are amended to read:

316.006 Jurisdiction.—Jurisdiction to control traffic is vested as follows:

(2) MUNICIPALITIES.—

(a) Chartered municipalities shall have original jurisdiction over all streets and highways located within their boundaries, except state roads, and may place and maintain such traffic control devices which conform to the manual and specifications of the Department of Transportation upon all streets and highways under their original jurisdiction as they shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic.

(b) A municipality may exercise jurisdiction over any private road or roads, or over any limited access road or roads owned or controlled by a special district, located within its boundaries if the municipality and party or parties owning or controlling such road or roads provide, by written agreement approved by the governing body of the municipality, for municipal traffic control jurisdiction over the road or roads encompassed by such agreement. Pursuant thereto:

1. Provision for reimbursement for actual costs of traffic control and enforcement and for liability insurance and indemnification by the party or parties, and such other terms as are mutually agreeable, may be included in such an agreement.

2. The exercise of jurisdiction provided for herein shall be in addition to jurisdictional authority presently exercised by municipalities under law, and nothing in this paragraph shall be construed to limit or remove any such jurisdictional authority. Such jurisdiction includes regulation of access to such road or roads by security devices or personnel.

3. Any such agreement may provide for the installation of multiparty stop signs by the parties controlling the roads covered by the agreement, if a determination is made by such parties that the signage will enhance traffic safety. Multiparty stop signs must conform to the manual and specifications of the Department of Transportation. However, minimum traffic volumes may not be required for the installation of such signage. Enforcement for the signs shall be as provided in s. 316.123.

This subsection shall not limit those counties which have the charter powers to provide and regulate arterial, toll, and other roads, bridges, tunnels, and related facilities from the proper exercise of those powers by the placement and maintenance of traffic control devices which conform to the manual and specifications of the Department of Transportation on streets and highways located within municipal boundaries.

(3) COUNTIES.—

(a) Counties shall have original jurisdiction over all streets and highways located within their boundaries, except all state roads and those streets and highways specified in subsection (2), and may place and maintain such traffic control devices which conform to the manual and specifications of the Department of Transportation upon all streets and highways under their original jurisdiction as they shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic.

(b) A county may exercise jurisdiction over any private road or roads, or over any limited access road or roads owned or controlled by a special district, located in the unincorporated area within its boundaries if the county and party or parties owning or controlling such road or roads provide, by written agreement approved by the governing body of the county, for county traffic control jurisdiction over the road or roads encompassed by such agreement. Pursuant thereto:

1. Provision for reimbursement for actual costs of traffic control and enforcement and for liability insurance and indemnification by the party or parties, and such other terms as are mutually agreeable, may be included in such an agreement.

2. Prior to entering into an agreement which provides for enforcement of the traffic laws of the state over a private road or roads, or over any limited access road or roads owned or controlled by a special district, the governing body of the county shall consult with the sheriff. No such agreement shall take effect prior to October 1, the beginning of the county fiscal year, unless this requirement is waived in writing by the sheriff.

3. The exercise of jurisdiction provided for herein shall be in addition to jurisdictional authority presently exercised by counties under law, and nothing in this paragraph shall be construed to limit or remove any such jurisdictional authority.

4. Any such agreement may provide for the installation of multiparty stop signs by the parties controlling the roads covered by the agreement, if a determination is made by such parties that the signage will enhance

traffic safety. Multiparty stop signs must conform to the manual and specifications of the Department of Transportation. However, minimum traffic volumes may not be required for the installation of such signage. Enforcement for the signs shall be as provided in s. 316.123.

Notwithstanding the provisions of subsection (2), each county shall have original jurisdiction to regulate parking, by resolution of the board of county commissioners and the erection of signs conforming to the manual and specifications of the Department of Transportation, in parking areas located on property owned or leased by the county, whether or not such areas are located within the boundaries of chartered municipalities.

Section 3. Subsection (4) is added to section 316.0741, Florida Statutes, to read:

(4) Notwithstanding provisions of this section to the contrary, an inherently low-emission vehicle (ILEV) that is certified and labeled in accordance with federal regulations may be driven in an HOV lane at any time, regardless of its occupancy.

Section 4. Effective July 1, 2001, subsection (4) of section 316.1951, Florida Statutes, is amended to read:

316.1951 Parking for certain purposes prohibited.—

(4) A law enforcement officer*, compliance examiner,* ~~or~~ license inspector*,* or supervisor *of the department*~~, as authorized in s. 320.58(1)(a),~~ may cause to be removed at the owner's expense any motor vehicle found upon a public street, public parking lot, other public property, or private property, where the public has the right to travel by motor vehicle, which is in violation of subsection (1). Every written notice issued pursuant to this section shall be affixed in a conspicuous place upon a vehicle by a law enforcement officer*, compliance examiner,* ~~or~~ license inspector*,* or supervisor *of the department*. Any vehicle found in violation of subsection (1) within 10 days after a previous violation and written notice shall be subject to immediate removal without an additional waiting period.

Section 5. Subsection (4) of section 316.1967, Florida Statutes, is amended to read:

316.1967 Liability for payment of parking ticket violations and other parking violations.—

(4) Any person who elects to appear before a designated official to present evidence waives his or her right to pay the civil penalty provisions of the ticket. The official, after a hearing, shall make a determination as to whether a parking violation has been committed and may impose a civil penalty not to exceed $100 *or the fine amount designated by county ordinance,* plus court costs. Any person who fails to pay the civil penalty within the time allowed by the court is deemed to have been convicted of a parking ticket violation, and the court shall take appropriate measures to enforce collection of the fine.

Section 6. Subsection (2) of section 316.1975, Florida Statutes, is amended to read:

316.1975 Unattended motor vehicle.—

(2) This section does not apply to the operator of:

(a) An authorized emergency vehicle while in the performance of official duties and the vehicle is equipped with an activated antitheft device that prohibits the vehicle from being driven; ~~or~~

(b) A licensed delivery truck or other delivery vehicle while making deliveries*; or*~~.~~

(c) A solid waste or recovered materials vehicle while collecting such items.

Section 7. Section 316.2065, Florida Statutes, is amended to read:

316.2065 Bicycle *and motorized scooter* regulations.—

(1) Every person propelling a vehicle by human power*, or operating a motorized scooter as defined in s. 316.003,* has all of the rights and all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this chapter, and except as to provisions of this chapter which by their nature can have no application.

(2) A person operating a bicycle may not ride other than upon or astride a permanent and regular seat attached thereto.

(3)(a) A bicycle may not be used to carry more persons at one time than the number for which it is designed or equipped, except that an adult rider may carry a child securely attached to his or her person in a backpack or sling.

(b) Except as provided in paragraph (a), a bicycle rider must carry any passenger who is a child under 4 years of age, or who weighs 40 pounds or less, in a seat or carrier that is designed to carry a child of that age or size and that secures and protects the child from the moving parts of the bicycle.

(c) A bicycle rider may not allow a passenger to remain in a child seat or carrier on a bicycle when the rider is not in immediate control of the bicycle.

(d) A bicycle rider or passenger who is under 16 years of age must wear a bicycle helmet that is properly fitted and is fastened securely upon the passenger's head by a strap, and that meets the standards of the American National Standards Institute (ANSI Z 90.4 Bicycle Helmet Standards), the standards of the Snell Memorial Foundation (1984 Standard for Protective Headgear for Use in Bicycling), or any other nationally recognized standards for bicycle helmets adopted by the department. As used in this subsection, the term "passenger" includes a child who is riding in a trailer or semitrailer attached to a bicycle.

(e) Law enforcement officers and school crossing guards may issue a bicycle safety brochure and a verbal warning to a bicycle rider or passenger who violates this subsection. A bicycle rider or passenger who violates this subsection may be issued a citation by a law enforcement officer and assessed a fine for a pedestrian violation, as provided in s. 318.18. The court shall dismiss the charge against a bicycle rider or passenger for a first violation of paragraph (d) upon proof of purchase of a bicycle helmet that complies with this subsection.

(f) A person operating a motorized scooter may not carry passengers.

(4) No person riding upon any bicycle, coaster, roller skates, sled, *motorized scooter,* or toy vehicle may attach the same or himself or herself to any vehicle upon a roadway. This subsection does not prohibit attaching a bicycle trailer or bicycle semitrailer to a bicycle if that trailer or semitrailer is commercially available and has been designed for such attachment.

(5)(a) Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

1. When overtaking and passing another bicycle*, motorized scooter,* or vehicle proceeding in the same direction.

2. When preparing for a left turn at an intersection or into a private road or driveway.

3. When reasonably necessary to avoid any condition, including, but not limited to, a fixed or moving object, parked or moving vehicle, bicycle, *motorized scooter,* pedestrian, animal, surface hazard, or substandard-width lane, that makes it unsafe to continue along the right-hand curb or edge. For the purposes of this subsection, a "substandard-width lane" is a lane that is too narrow for a bicycle *or motorized scooter* and another vehicle to travel safely side by side within the lane.

(b) Any person operating a bicycle *or motorized scooter* upon a one-way highway with two or more marked traffic lanes may ride as near the left-hand curb or edge of such roadway as practicable.

(6) Persons riding bicycles *or motorized scooters* upon a roadway may not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two abreast may not impede traffic when traveling at less than the normal speed of traffic at the time and place and under the conditions then existing and shall ride within a single lane.

(7) Any person operating a bicycle *or motorized scooter* shall keep at least one hand upon the handlebars.

(8) Every bicycle *or motorized scooter* in use between sunset and sunrise shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear each exhibiting a red light visible from a distance of 600 feet to the rear. A bicycle or *motorized scooter* ~~its~~ rider may be equipped with lights or reflectors in addition to those required by this section.

(9) No parent of any minor child and no guardian of any minor ward may authorize or knowingly permit any such minor child or ward to violate any of the provisions of this section.

(10) A person propelling a vehicle by human power *or operating a motorized scooter,* upon and along a sidewalk, or across a roadway upon and along a crosswalk, has all the rights and duties applicable to a pedestrian under the same circumstances.

(11) A person propelling a bicycle upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(12) No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, may go upon any roadway except while crossing a street on a crosswalk; and, when so crossing, such person shall be granted all rights and shall be subject to all of the duties applicable to pedestrians.

(13) This section shall not apply upon any street while set aside as a play street authorized herein or as designated by state, county, or municipal authority.

(14) Every bicycle *and motorized scooter* shall be equipped with a brake or brakes which will enable its rider to stop the bicycle *or motorized scooter* within 25 feet from a speed of 10 miles per hour on dry, level, clean pavement.

(15) A person engaged in the business of selling bicycles *or motorized scooters* at retail shall not sell *such* ~~any~~ bicycle *or motorized scooter* unless *it* ~~the bicycle~~ has an identifying number permanently stamped or cast on its frame.

(16)(a) A person may not knowingly rent or lease any bicycle to be ridden by a child who is under the age of 16 years unless:

1. The child possesses a bicycle helmet; or

2. The lessor provides a bicycle helmet for the child to wear.

(b) A violation of this subsection is a nonmoving violation, punishable as provided in s. 318.18.

(17) The court may waive, reduce, or suspend payment of any fine imposed under subsection (3) or subsection (16) and may impose any other conditions on the waiver, reduction, or suspension. If the court finds that a person does not have sufficient funds to pay the fine, the court may require the performance of a specified number of hours of community service or attendance at a safety seminar.

(18) Notwithstanding s. 318.21, all proceeds collected pursuant to s. 318.18 for violations under paragraphs (3)(e) and (16)(b) shall be deposited into the State Transportation Trust Fund.

(19) The failure of a person to wear a bicycle helmet or the failure of a parent or guardian to prevent a child from riding a bicycle without a bicycle helmet may not be considered evidence of negligence or contributory negligence.

(20) Except as otherwise provided in this section, a violation of this section is a noncriminal traffic infraction, punishable as a pedestrian violation as provided in chapter 318. A law enforcement officer may issue traffic citations for a violation of subsection (3) or subsection (16) only if the violation occurs on a bicycle path or road, as defined in s. 334.03. However, they may not issue citations to persons on private property, except any part thereof which is open to the use of the public for purposes of vehicular traffic.

Section 8. Subsection (2) of section 316.228, Florida Statutes, is amended to read:

316.228 Lamps or flags on projecting load.—

(2) Any *commercial* motor vehicle or trailer~~, except as stated in s. 316.515(7),~~ transporting a load of *unprocessed* logs *or*~~, long~~ pulpwood, ~~poles, or posts~~ which *load extends* ~~extend~~ more than 4 feet beyond the rear of the body or bed of such vehicle, must have securely fixed as close as practical to the end of any such projection one amber strobe-type lamp equipped with a multidirectional type lens so mounted as to be visible from the rear and both sides of the projecting load. *If the mounting of one strobe lamp cannot be accomplished so that it is visible from the rear and both sides of the projecting load, multiple strobe lights shall be utilized so as to meet the visibility requirements of this subsection.* The strobe lamp must flash at a rate of at least 60 flashes per minute and must be plainly visible from a distance of at least 500 feet to the rear and sides of the projecting load at any time of the day or night. The lamp must be operating at any time of the day or night when the vehicle is operated on any highway or parked on the shoulder or immediately adjacent to the traveled portion of any public roadway. *The projecting load shall also be marked with a red flag as described in subsection (1).*

Section 9. Subsection (9) of section 316.2397, Florida Statutes, is amended to read:

316.2397 Certain lights prohibited; exceptions.—

(9) Flashing red lights may be used by emergency response vehicles of the Department of Environmental Protection *and the Department of Health* when responding to an emergency in the line of duty.

Section 10. Section 316.520, Florida Statutes, is amended to read:

316.520 Loads on vehicles.—

(1) A vehicle may not be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing, or otherwise escaping therefrom, except that sand may be dropped only for the purpose of securing traction or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.

(2) It is the duty of every owner and driver, severally, of any vehicle hauling, upon any public road or highway open to the public, dirt, sand, lime rock, gravel, silica, or other similar aggregate or trash, garbage, or any similar material that could fall or blow from such vehicle, to prevent such materials from falling, blowing, or in any way escaping from such vehicle. Covering and securing the load with a close-fitting tarpaulin or other appropriate cover is required.

(3) A violation of this section is a noncriminal traffic infraction, punishable as a *moving* ~~nonmoving~~ violation as provided in chapter 318.

(4) This section does not apply to vehicles carrying agricultural products locally from a field harvest site to a farm storage site or to a farm feed lot on roads where the posted speed limit is 60 miles per hour or less and the distance driven on public roads is less than 20 miles.

Section 11. Subsections (1), (2), and (3) of section 316.640, Florida Statutes, are amended to read:

316.640 Enforcement.—The enforcement of the traffic laws of this state is vested as follows:

(1) STATE.—

(a)1.a. The Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles, the Division of Law Enforcement of the Fish and Wildlife Conservation Commission, the Division of Law Enforcement of the Department of Environmental Protection, and law enforcement officers of the Department of Transportation each have authority to enforce all of the traffic laws of this state on all the streets and highways thereof and elsewhere throughout the state wherever the public has a right to travel by motor vehicle. The Division of the Florida Highway Patrol may employ as a traffic accident investigation officer any individual who successfully completes at least 200 hours of instruction in traffic accident investigation and court presentation through the Selective Traffic Enforcement Program as approved by the Criminal Justice Standards and Training Commission and funded through the National Highway Traffic Safety Administration or a similar program approved by the commission, but who does not necessarily meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary law enforcement officers under chapter 943. Any such traffic accident investigation officer who makes an investigation at the scene of a traffic accident may issue traffic citations, based upon personal investigation, when he or she has reasonable and probable grounds to believe that a person who was involved in the accident committed an offense under this chapter, chapter 319, chapter 320, or chapter 322 in connection with the accident. This paragraph does not permit the carrying of firearms or other weapons, nor do such officers have arrest authority ~~other than for the issuance of a traffic citation as authorized in this paragraph~~.

b. University police officers shall have authority to enforce all of the traffic laws of this state when such violations occur on or about any property or facilities that are under the guidance, supervision, regulation, or control of *a state university, a direct support organization of such state university, or any other organization controlled by the state university or a direct support organization of the state university* ~~the State University System~~, except that traffic laws may be enforced off-campus when hot pursuit originates ~~on-campus~~ *on or adjacent to any such property or facilities.*

c. Community college police officers shall have the authority to enforce all the traffic laws of this state only when such violations occur on any property or facilities that are under the guidance, supervision, regulation, or control of the community college system.

d. Police officers employed by an airport authority shall have the authority to enforce all of the traffic laws of this state only when such violations occur on any property or facilities that are owned or operated by an airport authority.

(I) An airport authority may employ as a parking enforcement specialist any individual who successfully completes a training program established and approved by the Criminal Justice Standards and Training Commission for parking enforcement specialists but who does not otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary or part-time officers under s. 943.12. Nothing in this sub-sub-subparagraph shall be construed to permit the carrying of firearms or other weapons, nor shall such parking enforcement specialist have arrest authority.

(II) A parking enforcement specialist employed by an airport authority is authorized to enforce all state, county, and municipal laws and ordinances governing parking only when such violations are on property or facilities owned or operated by the airport authority employing the specialist, by appropriate state, county, or municipal traffic citation.

e. The Office of Agricultural Law Enforcement of the Department of Agriculture and Consumer Services shall have the authority to enforce traffic laws of this state only as authorized by the provisions of chapter 570. However, nothing in this section shall expand the authority of the Office of Agricultural Law Enforcement at its agricultural inspection stations to issue any traffic tickets except those traffic tickets for vehicles illegally passing the inspection station.

f. School safety officers shall have the authority to enforce all of the traffic laws of this state when such violations occur on or about any property or facilities which are under the guidance, supervision, regulation, or control of the district school board.

2. An agency of the state as described in subparagraph 1. is prohibited from establishing a traffic citation quota. A violation of this subparagraph is not subject to the penalties provided in chapter 318.

3. Any disciplinary action taken or performance evaluation conducted by an agency of the state as described in subparagraph 1. of a law enforcement officer's traffic enforcement activity must be in accordance with written work-performance standards. Such standards must be approved by the agency and any collective bargaining unit representing such law enforcement officer. A violation of this subparagraph is not subject to the penalties provided in chapter 318.

(b)1. The Department of Transportation has authority to enforce on all the streets and highways of this state all laws applicable within its authority.

2.a. The Department of Transportation shall develop training and qualifications standards for toll enforcement officers whose sole authority is to enforce the payment of tolls pursuant to s. 316.1001. Nothing in this subparagraph shall be construed to permit the carrying of firearms or other weapons, nor shall a toll enforcement officer have arrest authority.

b. For the purpose of enforcing s. 316.1001, governmental entities, as defined in s. 334.03, which own or operate a toll facility may employ independent contractors or designate employees as toll enforcement officers; however, any such toll enforcement officer must successfully meet the training and qualifications standards for toll enforcement officers established by the Department of Transportation.

(2) COUNTIES.—

(a) The sheriff's office of each of the several counties of this state shall enforce all of the traffic laws of this state on all the streets and highways thereof and elsewhere throughout the county wherever the public has the right to travel by motor vehicle. In addition, the sheriff's office may be required by the county to enforce the traffic laws of this state on any private or limited access road or roads over which the county has jurisdiction pursuant to a written agreement entered into under s. 316.006(3)(b).

(b) The sheriff's office of each county may employ as a traffic crash investigation officer any individual who successfully completes at least 200 hours of instruction in traffic crash investigation and court presentation through the Selective Traffic Enforcement Program (STEP) as approved by the Criminal Justice Standards and Training Commission and funded through the National Highway Traffic Safety Administration (NHTSA) or a similar program approved by the commission, but who does not necessarily otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary law enforcement officers under chapter 943. Any such traffic crash investigation officer who makes an investigation at the scene of a traffic crash may issue traffic citations when, based upon personal investigation, he or she has reasonable and probable grounds to believe that a person who was involved *in the crash* has committed an offense under this chapter*, chapter 319, chapter 320, or chapter 322* in connection with the *crash* ~~accident~~. This paragraph does not permit the carrying of firearms or other weapons, nor do such officers have arrest authority ~~other than for the issuance of a traffic citation as authorized in this paragraph~~.

(c) The sheriff's office of each of the several counties of this state may employ as a parking enforcement specialist any individual who successfully completes a training program established and approved by the Criminal Justice Standards and Training Commission for parking enforcement specialists, but who does not necessarily otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary or part-time officers under s. 943.12.

1. A parking enforcement specialist employed by the sheriff's office of each of the several counties of this state is authorized to enforce all state and county laws, ordinances, regulations, and official signs

governing parking within the unincorporated areas of the county by appropriate state or county citation and may issue such citations for parking in violation of signs erected pursuant to s. 316.006(3) at parking areas located on property owned or leased by a county, whether or not such areas are within the boundaries of a chartered municipality.

2. A parking enforcement specialist employed pursuant to this subsection shall not carry firearms or other weapons or have arrest authority.

(3) MUNICIPALITIES.—

(a) The police department of each chartered municipality shall enforce the traffic laws of this state on all the streets and highways thereof and elsewhere throughout the municipality wherever the public has the right to travel by motor vehicle. In addition, the police department may be required by a municipality to enforce the traffic laws of this state on any private or limited access road or roads over which the municipality has jurisdiction pursuant to a written agreement entered into under s. 316.006(2)(b). However, nothing in this chapter shall affect any law, general, special, or otherwise, in effect on January 1, 1972, relating to "hot pursuit" without the boundaries of the municipality.

(b) The police department of a chartered municipality may employ as a traffic crash investigation officer any individual who successfully completes at least 200 hours of instruction in traffic crash investigation and court presentation through the Selective Traffic Enforcement Program (STEP) as approved by the Criminal Justice Standards and Training Commission and funded through the National Highway Traffic Safety Administration (NHTSA) or a similar program approved by the commission, but who does not otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary law enforcement officers under chapter 943. Any such traffic crash investigation officer who makes an investigation at the scene of a traffic crash is authorized to issue traffic citations when, based upon personal investigation, he or she has reasonable and probable grounds to believe that a person involved *in the crash* has committed an offense under the provisions of this chapter*, chapter 319, chapter 320, or chapter 322* in connection with the crash. ~~Nothing in~~ This paragraph *does not* ~~shall be construed to~~ permit the carrying of firearms or other weapons, nor *do* ~~shall~~ such officers have arrest authority ~~other than for the issuance of a traffic citation as authorized above~~.

(c)1. A chartered municipality or its authorized agency or instrumentality may employ as a parking enforcement specialist any individual who successfully completes a training program established and approved by the Criminal Justice Standards and Training Commission for parking enforcement specialists, but who does not otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary or part-time officers under s. 943.12.

2. A parking enforcement specialist employed by a chartered municipality or its authorized agency or instrumentality is authorized to enforce all state, county, and municipal laws and ordinances governing parking within the boundaries of the municipality employing the specialist, by appropriate state, county, or municipal traffic citation. ~~Nothing in this paragraph shall be construed to permit the carrying of firearms or other weapons, nor shall such a parking enforcement specialist have arrest authority.~~

3. A parking enforcement specialist employed pursuant to this subsection may not carry firearms or other weapons or have arrest authority.

Section 12. Subsection (3) of section 316.650, Florida Statutes, is amended to read:

316.650 Traffic citations.—

(3) Every traffic enforcement officer, upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this state or of any traffic ordinance of any city or town, shall deposit the original and one copy of such traffic citation or, in the case of a traffic enforcement agency which has an automated citation issuance system, shall provide an electronic facsimile with a court having jurisdiction over the alleged offense or with its traffic violations bureau within 5 days after issuance to the violator. *If a law enforcement officer distributes additional information, such information shall be a copy of the traffic school reference guide.*

Section 13. Subsection (9) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(9) Any person who is cited for an infraction under this section other than a violation of s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court appearance, elect to attend in the location of his or her choice within this state a basic driver improvement course approved by the Department of Highway Safety and Motor Vehicles. In such a case, adjudication must be withheld; points, as provided by s. 322.27, may not be assessed; and the civil penalty that is imposed by s. 318.18(3) must be reduced by 18 percent; however, a person may not make an election under this subsection if the person has made an election under this subsection in the preceding 12 months. ~~A person may make no more than five elections under this subsection.~~ The requirement for community service under s. 318.18(8) is not waived by a plea of nolo contendere or by the withholding of adjudication of guilt by a court.

Section 14. Subsection (6) and paragraph (a) of subsection (8) of section 318.18, Florida Statutes, are amended to read:

318.18 Amount of civil penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 are as follows:

(6) One hundred dollars *or the fine amount designated by county ordinance, plus court costs* for illegally parking, under s. 316.1955, in a parking space provided for people who have disabilities. However, this fine will be waived if a person provides to the law enforcement agency that issued the citation for such a violation proof that the person committing the violation has a valid parking permit or license plate issued pursuant to s. 316.1958, s. 320.0842, s. 320.0843, s. 320.0845, or s. 320.0848 or a signed affidavit that the owner of the disabled parking permit or license plate was present at the time the violation occurred, and that such a parking permit or license plate was valid at the time the violation occurred. The law enforcement officer, upon determining that all required documentation has been submitted verifying that the required parking permit or license plate was valid at the time of the violation, must sign an affidavit of compliance. Upon provision of the affidavit of compliance and payment of a $5 dismissal fee to the clerk of the circuit court, the clerk shall dismiss the citation.

(8)(a) Any person who fails to comply with the court's requirements or who fails to pay the civil penalties specified in this section within the 30-day period provided for in s. 318.14 must pay an additional civil penalty of $12, $2.50 of which must be deposited into the General Revenue Fund, and $9.50 of which must be deposited in the Highway Safety Operating Trust Fund. There is hereby appropriated from the Highway Safety Operating Trust Fund for fiscal year 1996-1997 the amount of $4 million. From this appropriation the department shall contract with the Florida Association of Court Clerks, Inc., to design, establish, operate, upgrade, and maintain an automated statewide Uniform Traffic Citation Accounting System to be operated by the clerks of the court which shall include, but not be limited to, the accounting for traffic infractions by type, a record of the disposition of the citations, and an accounting system for the fines assessed and the subsequent fine amounts paid to the clerks of the court. On or before December 1, *2002* ~~2001~~, the clerks of the court must provide the information required by this chapter to be transmitted to the department by electronic transmission pursuant to the contract.

(b) Any person who fails to comply with the court's requirements as to civil penalties specified in this section due to demonstrable financial hardship shall be authorized to satisfy such civil penalties by public works or community service. Each hour of such service shall be applied, at the rate of the minimum wage, toward payment of the person's civil

penalties; provided, however, that if the person has a trade or profession for which there is a community service need and application, the rate for each hour of such service shall be the average standard wage for such trade or profession. Any person who fails to comply with the court's requirements as to such civil penalties who does not demonstrate financial hardship may also, at the discretion of the court, be authorized to satisfy such civil penalties by public works or community service in the same manner.

(c) If the noncriminal infraction has caused or resulted in the death of another, the person who committed the infraction may perform 120 community service hours under s. 316.027(4), in addition to any other penalties.

Section 15. Paragraph (b) of subsection (1) and subsection (2) of section 322.0261, Florida Statutes, are amended to read:

322.0261 Mandatory driver improvement course; certain crashes.—

(1) The department shall screen crash reports received under s. 316.066 or s. 324.051 to identify crashes involving the following:

(b) A ~~second~~ crash ~~by the same operator within the previous 2-year period~~ involving property damage in an apparent amount of at least *$2,500* ~~$500~~.

(2) With respect to an operator convicted of, or who pleaded nolo contendere to, a traffic offense giving rise to a crash identified pursuant to subsection (1), the department shall require that the operator, in addition to other applicable penalties, attend a departmentally approved *basic* driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days of receiving notice from the department, the operator's driver's license shall be canceled by the department until the course is successfully completed.

Section 16. Section 322.02615, Florida Statutes, is created to read:

322.02615 Mandatory driver improvement course; certain violations.—

(1) The department shall screen reports of convictions for violations of chapter 316 to identify operators who:

(a) Are less than 21 years of age and have been convicted of, or pleaded nolo contendere to, a noncriminal moving infraction and have also been convicted of, or pleaded nolo contendere to, another noncriminal moving infraction since initial license issuance.

(b) Have been convicted of, or pleaded nolo contendere to, more than one noncriminal moving infraction in a 12-month period.

(2) With respect to an operator convicted of, or who has pleaded nolo contendere to, a noncriminal traffic offense identified under subsection (1), the department shall require that the operator, in addition to other applicable penalties, attend a departmentally approved basic driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days after receiving notice from the department, the operator's driver's license shall be suspended by the department until the course is successfully completed.

(3) Attendance of a course approved by the department as a driver improvement course for purposes of s. 318.14(9) shall satisfy the requirements of this section. However, attendance of a course as required by this section is not included in the limitation on course elections under s. 318.14(9).

Section 17. Subsection (5) of section 318.1451, Florida Statutes, is amended to read:

318.1451 Driver improvement schools.—

(5)(a) No governmental entity or court shall provide, issue, or maintain any information or orders regarding driver improvement schools or course providers, with the exception of *the traffic school reference guide or course provider list referred to in paragraph (b)* ~~directing inquiries or requests to the local telephone directory heading of driving instruction or the traffic school reference guide~~. However, the department is authorized to maintain the information and records necessary to administer its duties and responsibilities for driver improvement courses. Where such information is a public record as defined in chapter 119, it shall be made available to the public upon request pursuant to s. 119.07(1). *Course providers receiving requests for information about traffic schools from geographic areas that they do not serve shall provide a telephone number for a course provider that they believe services such geographic area.*

(b) The department shall prepare for any governmental entity *or court* ~~to distribute~~ a traffic school reference guide which shall list the benefits of attending a driver improvement school *and contain the names of the fully approved course providers with a single telephone number for each such provider, as furnished by the provider. The cost of producing the traffic school reference guide must be assumed equally by providers electing to have their course included in the guide. Clerks of court may reproduce the traffic school reference guide course provider list, provided that each name is rotated on each reproduction so that each provider occupies each position on the list in a equitable manner*~~, but under no circumstance may any list of course providers or schools be included, and shall refer further inquiries to the telephone directory under driving instruction~~.

Section 18. Section 319.001, Florida Statutes, is amended to read:

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

(1) "Department" means the Department of Highway Safety and Motor Vehicles.

(2) "Front-end assembly" means fenders, hood, grill, and bumper.

(3)~~(2)~~ "Licensed dealer," unless otherwise specifically provided, means a motor vehicle dealer licensed under s. 320.27, a mobile home dealer licensed under s. 320.77, or a recreational vehicle dealer licensed under s. 320.771.

(4) "Motorcycle body assembly" means frame, fenders, and gas tanks.

(5) "Motorcycle engine" means cylinder block, heads, engine case, and crank case.

(6) "Motorcycle transmission" means drive train.

(7)~~(3)~~ "New mobile home" means a mobile home the equitable or legal title to which has never been transferred by a manufacturer, distributor, importer, or dealer to an ultimate purchaser.

(8)~~(4)~~ "New motor vehicle" means a motor vehicle the equitable or legal title to which has never been transferred by a manufacturer, distributor, importer, or dealer to an ultimate purchaser; however, when legal title is not transferred but possession of a motor vehicle is transferred pursuant to a conditional sales contract or lease and the conditions are not satisfied and the vehicle is returned to the motor vehicle dealer, the motor vehicle may be resold by the motor vehicle dealer as a new motor vehicle, provided the selling motor vehicle dealer gives the following written notice to the purchaser: "THIS VEHICLE WAS DELIVERED TO A PREVIOUS PURCHASER." The purchaser shall sign an acknowledgment, a copy of which is kept in the selling dealer's file.

(9) "Rear body section" means both quarter panels, decklid, bumper, and floor pan.

(10)~~(5)~~ "Satisfaction of lien" means full payment of a debt or release of a debtor from a lien by the lienholder.

(11)~~(6)~~ "Used motor vehicle" means any motor vehicle that is not a "new motor vehicle" as defined in subsection *(8)*~~(4)~~.

Section 19. Subsections (1), (2), and (3) of section 319.14, Florida Statutes, are amended, subsections (6), (7), and (8) are renumbered as subsections (7), (8), and (9), respectively, and a new subsection (6) is added to said section, to read:

319.14 Sale of motor vehicles registered or used as taxicabs, police vehicles, lease vehicles, or rebuilt vehicles and nonconforming vehicles.—

(1)(a) No person shall knowingly offer for sale, sell, or exchange any vehicle that has been licensed, registered, or used as a taxicab, police vehicle, or short-term-lease vehicle, or a vehicle that has been repurchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681, until the department has stamped in a conspicuous place on the certificate of title of the vehicle, or its duplicate, words stating the nature of the previous use of the vehicle or the title has been stamped "Manufacturer's Buy Back" to reflect that the vehicle is a nonconforming vehicle. If the certificate of title or duplicate was not so stamped upon initial issuance thereof or if, subsequent to initial issuance of the title, the use of the vehicle is changed to a use requiring the notation provided for in this section, the owner or lienholder of the vehicle shall surrender the certificate of title or duplicate to the department prior to offering the vehicle for sale, and the department shall stamp the certificate or duplicate as required herein. When a vehicle has been repurchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681, the title shall be stamped "Manufacturer's Buy Back" to reflect that the vehicle is a nonconforming vehicle.

(b) No person shall knowingly offer for sale, sell, or exchange a rebuilt vehicle until the department has stamped in a conspicuous place on the certificate of title for the vehicle words stating that the vehicle has been rebuilt *or*~~,~~ assembled from parts, ~~or combined,~~ or is a kit car, glider kit, replica, or flood vehicle unless proper application for a certificate of title for a vehicle that is rebuilt *or*~~,~~ assembled from parts, ~~or combined,~~ or is a kit car, glider kit, replica, or flood vehicle has been made to the department in accordance with this chapter and the department or its agent has conducted the physical examination of the vehicle to assure the identity of the vehicle *and all major component parts, as defined in s. 319.30(1)(e), which have been repaired or replaced. Thereafter, the department shall affix a decal to the vehicle, in the manner prescribed by the department, showing the vehicle to be rebuilt*.

(c) As used in this section:

1. "Police vehicle" means a motor vehicle owned or leased by the state or a county or municipality and used in law enforcement.

2.a. "Short-term-lease vehicle" means a motor vehicle leased without a driver and under a written agreement to one or more persons from time to time for a period of less than 12 months.

b. "Long-term-lease vehicle" means a motor vehicle leased without a driver and under a written agreement to one person for a period of 12 months or longer.

c. "Lease vehicle" includes both short-term-lease vehicles and long-term-lease vehicles.

3. "Rebuilt vehicle" means a motor vehicle or mobile home built from salvage or junk, as defined in s. 319.30(1).

4. "Assembled from parts" means a motor vehicle or mobile home assembled from parts *or combined from parts* of motor vehicles or mobile homes, new or used. "Assembled from parts" does not mean a motor vehicle defined as a "rebuilt vehicle" in subparagraph 3., which has been declared a total loss pursuant to s. 319.30.

~~5. "Combined" means assembled by combining two motor vehicles neither of which has been titled and branded as "Salvage Unrebuildable."~~

5.~~6.~~ "Kit car" means a motor vehicle assembled with a kit supplied by a manufacturer to rebuild a wrecked or outdated motor vehicle with a new body kit.

6.~~7.~~ "Glider kit" means a vehicle assembled with a kit supplied by a manufacturer to rebuild a wrecked or outdated truck or truck tractor.

7.~~8.~~ "Replica" means a complete new motor vehicle manufactured to look like an old vehicle.

8.~~9.~~ "Flood vehicle" means a motor vehicle or mobile home that has been declared to be a total loss pursuant to s. 319.30(3)(a) resulting from damage caused by water.

9.~~10.~~ "Nonconforming vehicle" means a motor vehicle which has been purchased by a manufacturer pursuant to a settlement, determination, or decision under chapter 681.

10.~~11.~~ "Settlement" means an agreement entered into between a manufacturer and a consumer that occurs after a dispute is submitted to a program, or an informal dispute settlement procedure established by a manufacturer or is approved for arbitration before the New Motor Vehicle Arbitration Board as defined in s. 681.102.

(2) No person shall knowingly sell, exchange, or transfer a vehicle referred to in subsection (1) without, prior to consummating the sale, exchange, or transfer, disclosing in writing to the purchaser, customer, or transferee the fact that the vehicle has previously been titled, registered, or used as a taxicab, police vehicle, or short-term-lease vehicle or is a vehicle that is rebuilt *or*~~,~~ assembled from parts, ~~or combined,~~ or is a kit car, glider kit, replica, or flood vehicle, or is a nonconforming vehicle, as the case may be.

(3) Any person who, with intent to offer for sale or exchange any vehicle referred to in subsection (1), knowingly or intentionally advertises, publishes, disseminates, circulates, or places before the public in any communications medium, whether directly or indirectly, any offer to sell or exchange the vehicle shall clearly and precisely state in each such offer that the vehicle has previously been titled, registered, or used as a taxicab, police vehicle, or short-term-lease vehicle or that the vehicle or mobile home is a vehicle that is rebuilt *or*~~,~~ assembled from parts, ~~or combined,~~ or is a kit car, glider kit, replica, or flood vehicle, or a nonconforming vehicle, as the case may be. Any person who violates this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(6) Any person who removes a rebuilt decal from a rebuilt vehicle or who knowingly possesses a rebuilt vehicle from which a rebuilt decal has been removed is guilty of a felony of the third degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 20. Paragraph (c) of subsection (3) of section 319.23, Florida Statutes, is amended to read:

319.23 Application for, and issuance of, certificate of title.—

(3) If a certificate of title has not previously been issued for a motor vehicle or mobile home in this state, the application, unless otherwise provided for in this chapter, shall be accompanied by a proper bill of sale or sworn statement of ownership, or a duly certified copy thereof, or by a certificate of title, bill of sale, or other evidence of ownership required by the law of the state or county from which the motor vehicle or mobile home was brought into this state. The application shall also be accompanied by:

~~(c) If the vehicle is an ancient or antique vehicle, as defined in s. 320.086, the application shall be accompanied by a certificate of title; a bill of sale and a registration; or a bill of sale and an affidavit by the owner defending the title from all claims. The bill of sale must contain a complete vehicle description to include the vehicle identification or engine number, year make, color, selling price, and signatures of the seller and purchaser.~~

Verification of the vehicle identification number is not required for any new motor vehicle; any mobile home; any trailer or semitrailer with a net weight of less than 2,000 pounds; or any travel trailer, camping trailer, truck camper, or fifth-wheel recreation trailer.

Section 21. Paragraph (a) of subsection (1) of section 319.28, Florida Statutes, is amended to read:

319.28 Transfer of ownership by operation of law.—

(1)(a) In the event of the transfer of ownership of a motor vehicle or mobile home by operation of law as upon inheritance, devise or bequest, order in bankruptcy, insolvency, replevin, attachment, execution or

other judicial sale or whenever the engine of a motor vehicle is replaced by another engine or whenever a motor vehicle is sold to satisfy storage or repair charges or repossession is had upon default in performance of the terms of a security agreement, chattel mortgage, conditional sales contract, trust receipt, or other like agreement, and upon the surrender of the prior certificate of title or, when that is not possible, presentation of satisfactory proof to the department of ownership and right of possession to such motor vehicle or mobile home, and upon payment of the fee prescribed by law and presentation of an application for certificate of title, the department may issue to the applicant a certificate of title thereto. ~~If the application is predicated upon a security agreement, chattel mortgage, conditional sales contract, trust receipt, or other like agreement, the original instrument or a certified copy thereof shall accompany the application; however, if an owner under a chattel mortgage voluntarily surrenders possession of the motor vehicle or mobile home, the original or a certified copy of the chattel mortgage shall accompany the application for a certificate of title and it shall not be necessary to institute proceedings in any court to foreclose such mortgage.~~

Section 22. Paragraphs (e) and (f) of subsection (1) and paragraph (b) of subsection (3) of section 319.30, Florida Statutes, are amended to read:

319.30 Definitions; dismantling, destruction, change of identity of motor vehicle or mobile home; salvage.—

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

(e) "Major component parts" means*:*

1. For motor vehicles other than motorcycles: the front-end assembly (fenders, hood, grill, bumper), cowl assembly, rear body section (both quarter panels, decklid, bumper), floor pan, door assemblies, engine, frame, transmission, and airbag.

2. For trucks, in addition to 1. above: the truck bed.

3. For motorcycles: body assembly, frame, fenders, gas tanks, engine, cylinder block, heads, engine case, crank case, transmission, drive train, front fork assembly, and wheels.

4. For mobile homes: the frame. ~~the front-end assembly (fenders, hood, grill, and bumper); cowl assembly; rear body section (both quarter panels, decklid, bumper, and floor pan); door assemblies; engine; frame; or transmission.~~

(f) "Major part" means the front-end assembly ~~(fenders, hood, grill, and bumper); cowl assembly; or rear body section (both quarter panels, decklid, bumper, and floor pan)~~.

(3)

(b) The owner of any motor vehicle or mobile home which is considered to be salvage shall, within 72 hours after the motor vehicle or mobile home becomes salvage, forward the title to the motor vehicle or mobile home to the department for processing. However, an insurance company which pays money as compensation for total loss of a motor vehicle or mobile home shall obtain the certificate of title for the motor vehicle or mobile home and, within 72 hours after receiving such certificate of title, shall forward such title to the department for processing. The owner or insurance company, as the case may be, may not dispose of a vehicle or mobile home that is a total loss before it has obtained a salvage certificate of title or certificate of destruction from the department. When applying for a salvage certificate of title or certificate of destruction, the owner or insurance company must provide the department with an estimate of the costs of repairing the physical and mechanical damage suffered by the vehicle for which a salvage certificate of title or certificate of destruction is sought. If the estimated costs of repairing the physical and mechanical damage to the vehicle are equal to 80 percent or more of the current retail cost of the vehicle, as established in any official used car or used mobile home guide, the department shall declare the vehicle unrebuildable and print a certificate of destruction, which authorizes the dismantling or destruction of the motor vehicle or mobile home described therein. This certificate of destruction shall be reassignable a maximum of two times before dismantling or destruction of the vehicle shall be required, and shall accompany the motor vehicle or mobile home for which it is issued, when such motor vehicle or mobile home is sold for such purposes, in lieu of a certificate of title, and, thereafter, the department shall refuse issuance of any certificate of title for that vehicle. Nothing in this subsection shall be applicable when a vehicle is worth less than $1,500 retail in undamaged condition in any official used motor vehicle guide or used mobile home guide*. An insurer paying a total loss claim may obtain a certificate of destruction for such vehicle.* ~~or~~ When a stolen motor vehicle or mobile home is recovered in substantially intact condition and is readily resalable without extensive repairs to or replacement of the frame or engine*, the insurer shall obtain a certificate of title in its own name before the vehicle may be sold or transferred*. Any person who willfully and deliberately violates this paragraph or falsifies any document to avoid the requirements of this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 23. Subsection (1) of section 320.01, Florida Statutes, is amended to read:

320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided, the term:

(1) "Motor vehicle" means:

(a) An automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power, but the term does not include traction engines, road rollers, such vehicles as run only upon a track, bicycles, *motorized scooters,* or mopeds.

(b) A recreational vehicle-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Recreational vehicle-type units, when traveling on the public roadways of this state, must comply with the length and width provisions of s. 316.515, as that section may hereafter be amended. As defined below, the basic entities are:

1. The "travel trailer," which is a vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle. It is primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use. It has a body width of no more than 8½ feet and an overall body length of no more than 40 feet when factory-equipped for the road.

2. The "camping trailer," which is a vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

3. The "truck camper," which is a truck equipped with a portable unit designed to be loaded onto, or affixed to, the bed or chassis of the truck and constructed to provide temporary living quarters for recreational, camping, or travel use.

4. The "motor home," which is a vehicular unit which does not exceed *the* ~~40 feet in~~ length*,* ~~and the~~ height*,* and ~~the~~ width limitations provided in s. 316.515, is a self-propelled motor vehicle, and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.

5. The "private motor coach," which is a vehicular unit which does not exceed the length, width, and height limitations provided in s. 316.515(9), is built on a self-propelled bus type chassis having no fewer than three load-bearing axles, and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.

6. The "van conversion," which is a vehicular unit which does not exceed the length and width limitations provided in s. 316.515, is built on a self-propelled motor vehicle chassis, and is designed for recreation, camping, and travel use.

7. The "park trailer," which is a transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. The total area of the unit in a setup mode, when measured from the exterior surface of the exterior stud walls at the level of maximum dimensions, not including any bay window, does not exceed 400 square feet when constructed to ANSI A-119.5 standards, and 500 square feet when constructed to United States Department of Housing and Urban Development Standards. The length of a park trailer means the distance from the exterior of the front of the body (nearest to the drawbar and coupling mechanism) to the exterior of the rear of the body (at the opposite end of the body), including any protrusions.

8. The "fifth-wheel trailer," which is a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed 400 square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

Section 24. Subsections (18) and (19) are added to section 320.02, Florida Statutes, to read:

320.02 Registration required; application for registration; forms.—

(18) The application form for motor vehicle registration and renewal of registration must include language permitting a voluntary contribution of $2 per applicant, which shall be distributed to the Hearing Research Institute, Incorporated, for the purpose of infant hearing screening in Florida.

(19) The application form for motor vehicle registration and renewal of registration must include language permitting a voluntary contribution of $1 per applicant, which shall be distributed to the Juvenile Diabetes Foundation International.

Section 25. Paragraph (b) of subsection (4) and subsections (5), (6), and (7) of section 320.023, Florida Statutes, are amended, and subsection (8) is added to said section, to read:

320.023 Requests to establish voluntary checkoff on motor vehicle registration application.—

(4)

(b) The department is authorized to discontinue the voluntary contribution and distribution of associated proceeds if the organization no longer exists, if the organization has stopped providing services that are authorized to be funded from the voluntary contributions, or pursuant to an organizational recipient's request. *Organizations are required to notify the department immediately to stop warrants for voluntary check-off contributions if any of the conditions in this subsection exist, and must meet the requirements of paragraph (5)(b) or paragraph (5)(c), if applicable, for any period of operation during the fiscal year.*

(5) A voluntary contribution collected and distributed under this chapter, or any interest earned from those contributions, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by law~~, or to pay the cost of the audit or report required by law~~.

(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that proceeds are used in accordance with law.

~~(b) All organizational recipients of any voluntary contributions in excess of $15,000, not otherwise subject to annual audit by the Office of the Auditor General, shall submit an annual audit of the expenditures of these contributions and interest earned from these contributions, to determine if expenditures are being made in accordance with the specifications outlined by law. The audit shall be prepared by a certified public accountant licensed under chapter 473 at that organizational recipient's expense. The notes to the financial statements should state whether expenditures were made in accordance with law.~~

(b)~~(c)~~ *Any organization not subject to* ~~In lieu of an annual~~ audit *pursuant to s. 215.97 shall*~~,any organization receiving less than $15,000 in voluntary contributions directly from the department may~~ annually *attest* ~~report~~, under penalties of perjury, that such proceeds were used in compliance with law. The attestation shall be made annually in a form and format determined by the department.

(c)~~(d)~~ Any voluntary contributions authorized by law shall only be distributed to an organization under an appropriation by the Legislature.

(d)~~(c)~~ *Any organization subject to audit pursuant to s. 215.97 shall submit an audit report in accordance with rules promulgated by the Auditor General.* The annual *attestation* ~~audit or report~~ shall be submitted to the department for review within *9 months* ~~180 days~~ after the end of the organization's fiscal year.

(6) Within 90 days after receiving an organization's audit or *attestation* ~~report~~, the department shall determine which recipients have not complied with subsection (5). If the department determines that an organization has not complied or has failed to use the revenues in accordance with law, the department must discontinue the distribution of the revenues to the organization until the department determines that the organization has complied. If an organization fails to comply within 12 months after the voluntary contributions are withheld by the department, the proceeds shall be deposited into the Highway Safety Operating Trust Fund to offset department costs.

(7) The ~~Auditor General and the~~ department *has* ~~have~~ the authority to examine all records pertaining to the use of funds from the voluntary contributions authorized.

(8) All organizations seeking to establish a voluntary contribution on a motor vehicle registration application that are required to operate under the Solicitation of Contributions Act, as provided in chapter 496, must do so before funds may be distributed.

Section 26. Subsections (1) and (2) of section 320.025, Florida Statutes, are amended to read:

320.025 Registration certificate and license plate issued under fictitious name; application.—

(1) A confidential registration certificate and registration license plate *or decal* shall be issued under a fictitious name only for a motor vehicle *or vessel* owned or operated by a law enforcement agency of state, county, municipal, or federal government, the Attorney General's Medicaid Fraud Control Unit, or any state public defender's office. The requesting agency shall file a written application with the department on forms furnished by the department, which includes a statement that the license plate will be used for the Attorney General's Medicaid Fraud Control Unit, or law enforcement or any state public defender's office activities requiring concealment of publicly leased or owned motor vehicles *or vessels* and a statement of the position classifications of the individuals who are authorized to use the license plate. The department may modify its records to reflect the fictitious identity of the owner or lessee until such time as the license plate and registration certificate are surrendered to it.

(2) Except as provided in subsection (1), any motor vehicle owned or exclusively operated by the state or any county, municipality, or other governmental entity must at all times display a license plate of the type prescribed in s. 320.0655. *Any vessel owned or exclusively operated by the state or any county, municipality, or other governmental entity must at all times display a registration number as required in s. 328.56 and a vessel decal as required in s. 328.48(5).*

Section 27. Subsections (1) and (2) of section 320.05, Florida Statutes, are amended read:

320.05 Records of the department; inspection procedure; lists and searches; fees.—

(1) Except as provided in *ss.* ~~s.~~ 119.07(3) *and 320.025(3)*, the department may release records as provided in this section.

(2) Upon receipt of an application for the registration of a motor vehicle*, vessel,* or mobile home, as herein provided for, the department shall register the motor vehicle*, vessel,* or mobile home under the distinctive number assigned to such motor vehicle*, vessel,* or mobile home by the department. Electronic registration records shall be open to the inspection of the public during business hours. Information on a motor vehicle *or vessel* registration may not be made available to a person unless the person requesting the information furnishes positive proof of identification. The agency that furnishes a motor vehicle *or vessel* registration record shall record the name and address of any person other than a representative of a law enforcement agency who requests and receives information from a motor vehicle *or vessel* registration record and shall also record the name and address of the person who is the subject of the inquiry or other information identifying the entity about which information is requested. A record of each such inquiry must be maintained for a period of 6 months from the date upon which the information was released to the inquirer. Nothing in this section shall prohibit any financial institution, insurance company, motor vehicle dealer, licensee under chapter 493, attorney, or other agency which the department determines has the right to know from obtaining, for professional or business use only, information in such records from the department through any means of telecommunication pursuant to a code developed by the department providing all fees specified in subsection (3) have been paid. The department shall disclose records or information to the child support enforcement agency to assist in the location of individuals who owe or potentially owe child support or to whom such an obligation is owed pursuant to Title IV-D of the Social Security Act.

Section 28. Subsection (5) of section 320.055, Florida Statutes, is amended to read:

320.055 Registration periods; renewal periods.—The following registration periods and renewal periods are established:

(5) For a vehicle subject to *apportioned* registration under s. 320.08(4), (5)(a)1., (e), (6)(b), or (14), the registration period shall be a period of 12 months beginning in a month designated by the department and ending on the last day of the 12th month. For a vehicle subject to this registration period, the renewal period is the last month of the registration period. The registration period may be shortened or extended at the discretion of the department, on receipt of the appropriate prorated fees, in order to evenly distribute such registrations on a monthly basis. *For vehicles subject to registration other than apportioned under s. 320.08(4), (5)(a)1., (6)(b), or (14), the registration period begins December 1 and ends November 30. The renewal period is the 31-day period beginning December 1.*

Section 29. Paragraphs (b) and (c) of subsection (1) of section 320.06, Florida Statutes, are amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(1)

(b) Registration license plates bearing a graphic symbol and the alphanumeric system of identification shall be issued for a 5-year period. At the end of said 5-year period, upon renewal, the plate shall be replaced. The fee for such replacement shall be $10, $2 of which shall be paid each year before the plate is replaced, to be credited towards the next $10 replacement fee. The fees shall be deposited into the Highway Safety Operating Trust Fund. A credit or refund shall not be given for any prior years' payments of such prorated replacement fee when the plate is replaced or surrendered before the end of the 5-year period. With each license plate, there shall be issued a validation sticker showing the owner's birth month*, license plate number, and the year of expiration* or the appropriate renewal period if the owner is not a natural person. *The validation sticker is to be placed on the upper right corner of the license plate.* ~~This validation sticker shall be placed on the upper left corner of the license plate and shall be issued one time during the life of the license plate, or upon request when it has been damaged or destroyed. There shall also be issued with each license plate a serially numbered validation sticker showing the year of expiration, which sticker shall be placed on the upper right corner of the license plate.~~ Such license plate and validation stickers shall be issued based on the applicant's appropriate renewal period. The registration period shall be a period of 12 months, and all expirations shall occur based on the applicant's appropriate registration period. A vehicle with an apportioned registration shall be issued an annual license plate and a cab card that denote the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate.

(c) Registration license plates equipped with validation stickers shall be valid for not more than 12 months and shall expire at midnight on the last day of the registration period. For each registration period after the one in which the metal registration license plate is issued, and until the license plate is required to be replaced, a validation sticker showing the *month and* year of expiration shall be issued upon payment of the proper license tax amount and fees and shall be valid for not more than 12 months. When license plates equipped with validation stickers are issued in any month other than the owner's birth month or the designated registration period for any other motor vehicle, the effective date shall reflect the birth month or month and the year of renewal. However, when a license plate or validation sticker is issued for a period of less than 12 months, the applicant shall pay the appropriate amount of license tax and the applicable fee under the provisions of s. 320.14 in addition to all other fees. Validation stickers issued for vehicles taxed under the provisions of s. 320.08(6)(a), for any company which owns 250 vehicles or more, or for semitrailers taxed under the provisions of s. 320.08(5)(a), for any company which owns 50 vehicles or more, may be placed on any vehicle in the fleet so long as the vehicle receiving the validation sticker has the same owner's name and address as the vehicle to which the validation sticker was originally assigned.

Section 30. Paragraphs (h) and (i) are added to subsection (2) of section 320.072, Florida Statutes, to read:

320.072 Additional fee imposed on certain motor vehicle registration transactions.—

(1) A fee of $100 is imposed upon the initial application for registration pursuant to s. 320.06 of every motor vehicle classified in s. 320.08(2), (3), and (9)(c) and (d).

(2) The fee imposed by subsection (1) shall not apply to:

(h) Any license plate issued in the previous 10-year period from the date the transaction is being processed.

(i) Any license plate issued to a vehicle taxed under s. 320.08(2), (3), and (9)(c) or (d) at any time during the previous 10-year period.

Section 31. Subsection (6) of section 320.0805, Florida Statutes, is amended to read:

320.0805 Personalized prestige license plates.—

(6) A personalized prestige license plate shall be issued for the exclusive continuing use of the applicant. An exact duplicate of any plate may not be issued to any other applicant during the same registration period. An exact duplicate may not be issued for any succeeding year unless the previous owner of a specific plate relinquishes it by failure to apply for renewal or reissuance for *1 year following the last year of issuance* ~~three consecutive annual registration periods following the original year of issuance~~.

Section 32. Paragraph (h) of subsection (4) of section 320.08056, Florida Statutes, is amended to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(h) Florida educational license plate, *$25* ~~$15~~.

Section 33. Paragraph (ff) is added to subsection (4) of section 320.08056, Florida Statutes, and paragraphs (a), (b), and (c) of subsection (8) of that section, are amended to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(ff) Florida Golf license plate, $25.

(8)(a) The department must discontinue the issuance of an approved specialty license plate if:

1. Less than 8,000 plates*, including annual renewals,* are issued for that specialty license plate by the end of the 5th year of sales.

2. Less than 8,000 plates*, including annual renewals,* are issued for that specialty license plate during any subsequent 5-year period.

(b) The department is authorized to discontinue the issuance of a specialty license plate and distribution of associated annual use fee proceeds if the organization no longer exists, if the organization has stopped providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request. *An organization is required to notify the department immediately to stop all warrants for plate sales if any of the conditions in this section exist, and the organization must comply with s. 320.08062 for any period of operation during a fiscal year.*

(c) The requirements of paragraph (a) shall not apply to collegiate specialty license plates authorized in s. 320.08058(3)*,* ~~and~~ (13)*, (21), and (26)*.

Section 34. Subsection (32) is added to section 320.08058, Florida Statutes, to read:

320.08058 Specialty license plates.—

(32) FLORIDA GOLF LICENSE PLATES.—

(a) The Department of Highway Safety and Motor Vehicles shall develop a Florida Golf license plate as provided in this section. The word "Florida" must appear at the bottom of the plate. The Dade Amateur Golf Association, following consultation with the PGA TOUR, the Florida Sports Foundation, the LPGA and the PGA of America may submit a revised sample plate for consideration by the department.

(b) The department shall distribute the Florida Golf license plate annual use fee to the Florida Sports Foundation, a direct support organization of the Office of Tourism, Trade, and Economic Development. The license plate annual use fees are to be annually allocated as follows:

1. Up to five percent of the proceeds from the annual use fees may be used by the Florida Sports Foundation for the administration of the Florida Youth Golf Program.

2. The Dade Amateur Golf Association shall receive the first $80,000 in proceeds from the annual use fees for the operation of youth golf programs in Miami-Dade County. Thereafter, 15 percent of the proceeds from the annual use fee shall be provided to the Dade Amateur Golf Association for the operation of youth golf programs in Miami-Dade County.

3. The remaining proceeds from the annual use fee shall be available for grants to nonprofit organizations to operate youth golf programs and for the purpose of marketing the Florida Golf License Plates. All grant recipients, including the Dade Amateur Golf Association, shall be required to provide to the Florida Sports Foundation an annual program and financial report regarding the use of grant funds. Such reports shall be made available to the public.

(c) The Florida Sports Foundation shall establish a Florida Youth Golf Program. The Florida Youth Golf Program shall assist organizations for the benefit of youth, introduce young people to golf, instruct young people in golf, teach the values of golf, and stress life skills, fair play, courtesy, and self-discipline.

(d) The Florida Sports Foundation shall establish a five-member committee to offer advice regarding the distribution of the annual use fees for grants to nonprofit organizations. The advisory committee shall consist of one member from a group serving youth, one member from a group serving disabled youth, and three members at large.

Section 35. Section 320.08062, Florida Statutes, is amended to read:

320.08062 Audits *and attestation* required; annual use fees of specialty license plates.—

(1)(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that proceeds are used in accordance with ss. 320.08056 and 320.08058.

~~(b) All organizational recipients of any specialty license plate annual use fee authorized in this chapter, not otherwise subject to annual audit by the Office of the Auditor General, shall submit an annual audit of the expenditures of annual use fees and interest earned from these fees, to determine if expenditures are being made in accordance with the specifications outlined by law. The audit shall be prepared by a certified public accountant licensed under chapter 473 at that organizational recipient's expense. The notes to the financial statements should state whether expenditures were made in accordance with ss. 320.08056 and 320.08058.~~

(b)~~(c)~~ *Any organization not subject to* ~~In lieu of an annual~~ audit *pursuant to s. 215.97 shall*~~, any organization receiving less than $25,000 in annual use fee proceeds directly from the department, or from another state agency, may~~ annually *attest* ~~report~~, under penalties of perjury, that such proceeds were used in compliance with ss. 320.08056 and 320.08058. The attestation shall be made annually in a form and format determined by the department.

(c)~~(d)~~ *Any organization subject to audit pursuant to s. 215.97 shall submit an audit report in accordance with rules promulgated by the Auditor General.* The annual *attestation* ~~audit~~ or report shall be submitted to the department for review within *9 months* ~~180 days~~ after the end of the organization's fiscal year.

(2) Within 90 days after receiving an organization's audit or *attestation* ~~report~~, the department shall determine which recipients of revenues from specialty license plate annual use fees have not complied with subsection (1). If the department determines that an organization has not complied or has failed to use the revenues in accordance with ss. 320.08056 and 320.08058, the department must discontinue the distribution of the revenues to the organization until the department determines that the organization has complied. If an organization fails to comply within 12 months after the annual use fee proceeds are withheld by the department, the proceeds shall be deposited into the Highway Safety Operating Trust Fund to offset department costs related to the issuance of specialty license plates.

(3) The ~~Auditor General and the~~ department *has* ~~have~~ the authority to examine all records pertaining to the use of funds from the sale of specialty license plates.

Section 36. Subsection (1) of section 320.083, Florida Statutes, is amended to read:

320.083 Amateur radio operators; special license plates; fees.—

(1) A person who is the owner or lessee of an automobile *or truck* for private use, a truck weighing not more than *7,999* ~~5,000~~ pounds, or a recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use; who is a resident of the state; and who holds a valid official amateur radio station license issued by the Federal Communications Commission shall be issued a special license plate upon application, accompanied by proof of ownership of such radio station license, and payment of the following tax and fees:

(a) The license tax required for the vehicle, as prescribed by s. 320.08(2), (3)(a), (b), or (c), *(4)(a), (b), (c), (d), (e), or (f),* or (9); and

(b) An initial additional fee of $5, and an additional fee of $1.50 thereafter.

Section 37. Subsections (1), (2), and (3) of section 320.089, Florida Statutes, are amended to read:

320.089 Members of National Guard and active United States Armed Forces reservists; former prisoners of war; survivors of Pearl Harbor; Purple Heart medal recipients; special license plates; fee.—

(1)(a) Each owner or lessee of an automobile or truck for private use or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of the state and an active or retired member of the Florida National Guard, a survivor of the attack on Pearl Harbor, a recipient of the Purple Heart medal, or an active member of any branch of the United States Armed Forces Reserve shall, upon application to the department, accompanied by proof of active membership or retired status in the Florida National Guard, proof of membership in the Pearl Harbor Survivors Association or proof of active military duty in Pearl Harbor on December 7, 1941, proof of being a Purple Heart medal recipient, or proof of active membership in any branch of the Armed Forces Reserve, and upon payment of the license tax for the vehicle as provided in s. 320.08, be issued a license plate as provided by s. 320.06, upon which, in lieu of the serial numbers prescribed by s. 320.06, shall be stamped the words "National Guard," "Pearl Harbor Survivor," "Combat-wounded veteran," or "U.S. Reserve," as appropriate, followed by the serial number of the license plate. Additionally, the Purple Heart plate may have the words "Purple Heart" stamped on the plate and the likeness of the Purple Heart medal appearing on the plate.

(b) Notwithstanding any other provision of law to the contrary beginning with fiscal year 2000-2001 and annually thereafter, the first $50,000 in general revenue generated from the sale of license plates issued under this section which are stamped with the words "National Guard," "Pearl Harbor Survivor," "Combat-wounded veteran," or "U.S. Reserve" shall be deposited into the Grants and Donations Trust Fund, as described in s. 296.38(2), to be used for the purposes established by law for that trust fund.

(c) Notwithstanding any provisions of law to the contrary, an applicant for a Pearl Harbor Survivor license plate or a Purple Heart license plate who also qualifies for a disabled veteran's license plate under s. 320.084 shall be issued one appropriate special license plate without payment of the license tax imposed by s. 320.08.

(2) Each owner or lessee of an automobile *or truck* for private use, truck weighing not more than *7,999* ~~5,000~~ pounds, or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of the state and who is a former prisoner of war, or their unremarried surviving spouse, shall, upon application therefor to the department, be issued a license plate as provided in s. 320.06, on which license plate are stamped the words "Ex-POW" followed by the serial number. Each application shall be accompanied by proof that the applicant meets the qualifications specified in paragraph (a) or paragraph (b).

(a) A citizen of the United States who served as a member of the Armed Forces of the United States or the armed forces of a nation allied with the United States who was held as a prisoner of war at such time as the Armed Forces of the United States were engaged in combat, or their unremarried surviving spouse, may be issued the special license plate provided for in this subsection without payment of the license tax imposed by s. 320.08.

(b) A person who was serving as a civilian with the consent of the United States Government, or a person who was a member of the Armed Forces of the United States who was not a United States citizen and was held as a prisoner of war when the Armed Forces of the United States were engaged in combat, or their unremarried surviving spouse, may be issued the special license plate provided for in this subsection upon payment of the license tax imposed by s. 320.08.

(3) Each owner or lessee of an automobile *or truck* for private use, truck weighing not more than *7,999* ~~5,000~~ pounds, or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of this state and who is the unremarried surviving spouse of a recipient of the Purple Heart medal shall, upon application therefor to the department, with the payment of the required fees, be issued a license plate as provided in s. 320.06, on which license plate are stamped the words "Purple Heart" and the likeness of the Purple Heart medal followed by the serial number. Each application shall be accompanied by proof that the applicant is the unremarried surviving spouse of a recipient of the Purple Heart medal.

Section 38. Subsection (1) of section 320.18, Florida Statutes, is amended to read:

320.18 Withholding registration.—

(1) The department may withhold the registration of any motor vehicle or mobile home the owner of which has failed to register it under the provisions of law for any previous period or periods for which it appears registration should have been made in this state, until the tax for such period or periods is paid. The department may cancel any license plate or fuel-use tax decal if the owner pays for the license plate, fuel-use tax decal, or any tax liability, penalty, or interest specified in chapter 207 by a dishonored check*, or if the vehicle owner or motor carrier has failed to pay a penalty for a weight or safety violation issued by the Department of Transportation Motor Carrier Compliance Office.*. The Department of Transportation and the Department of Highway Safety and Motor Vehicles may impound any commercial motor vehicle that has a canceled license plate or fuel-use tax decal until the tax liability, penalty, and interest specified in chapter 207, the license tax, or the fuel-use decal fee, and applicable administrative fees have been paid for by certified funds.

Section 39. Paragraph (c) of subsection (1) of secton 320.27, Florida Statutes, is amended, paragraph (f) is added to said subsection, and subsections (7) and (9) of said section are amended, to read:

320.27 Motor vehicle dealers.—

(1) DEFINITIONS.—The following words, terms, and phrases when used in this section have the meanings respectively ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(c) "Motor vehicle dealer" means any person engaged in the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale at wholesale or retail, or who may service and repair motor vehicles pursuant to an agreement as defined in s. 320.60(1). Any person who buys, sells, or deals in three or more motor vehicles in any 12-month period or who offers or displays for sale three or more motor vehicles in any 12-month period shall be prima facie presumed to be engaged in such business. The terms "selling" and "sale" include lease-purchase transactions. A motor vehicle dealer may, at retail or wholesale, sell a recreational vehicle as described in s. 320.01(1)(b)1.-6. and 8., acquired in exchange for the sale of a motor vehicle, provided such acquisition is incidental to the principal business of being a motor vehicle dealer. However, a motor vehicle dealer may not buy a recreational vehicle for the purpose of resale unless licensed as a recreational vehicle dealer pursuant to s. 320.771. A motor vehicle dealer may apply for a certificate of title to a motor vehicle required to be registered under s. 320.08(2)(b), (c), and (d), using a manufacturer's statement of origin as permitted by s. 319.23(1), only if such dealer is authorized by a franchised agreement as defined in s. 320.60(1), to buy, sell, or deal in such vehicle and is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on the motor vehicle; provided this limitation shall not apply to recreational vehicles, van conversions, or any other motor vehicle manufactured on a truck chassis. The transfer of a motor vehicle by a dealer not meeting these qualifications shall be titled as a used vehicle. The classifications of motor vehicle dealers are defined as follows:

1. "Franchised motor vehicle dealer" means any person who engages in the business of repairing, servicing, buying, selling, or dealing in motor vehicles pursuant to an agreement as defined in s. 320.60(1).

2. "Independent motor vehicle dealer" means any person other than a franchised or wholesale motor vehicle dealer who engages in the

business of buying, selling, or dealing in motor vehicles, and who may service and repair motor vehicles.

3. "Wholesale motor vehicle dealer" means any person who engages exclusively in the business of buying, selling, or dealing in motor vehicles at wholesale or with motor vehicle auctions. Such person shall be licensed to do business in this state, shall not sell or auction a vehicle to any person who is not a licensed dealer, and shall not have the privilege of the use of dealer license plates. Any person who buys, sells, or deals in motor vehicles at wholesale or with motor vehicle auctions on behalf of a licensed motor vehicle dealer and as a bona fide employee of such licensed motor vehicle dealer is not required to be licensed as a wholesale motor vehicle dealer. In such cases it shall be prima facie presumed that a bona fide employer-employee relationship exists. A wholesale motor vehicle dealer shall be exempt from the display provisions of this section but shall maintain an office wherein records are kept in order that those records may be inspected.

4. "Motor vehicle auction" means any person offering motor vehicles or recreational vehicles for sale to the highest bidder where ~~both sellers and~~ buyers are licensed motor vehicle dealers. Such person shall not sell a vehicle to anyone other than a licensed motor vehicle dealer.

5. "Salvage motor vehicle dealer" means any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.

The term "motor vehicle dealer" does not include persons not engaged in the purchase or sale of motor vehicles as a business who are disposing of vehicles acquired for their own use or for use in their business or acquired by foreclosure or by operation of law, provided such vehicles are acquired and sold in good faith and not for the purpose of avoiding the provisions of this law; persons engaged in the business of manufacturing, selling, or offering or displaying for sale at wholesale or retail no more than 25 trailers in a 12-month period; public officers while performing their official duties; receivers; trustees, administrators, executors, guardians, or other persons appointed by, or acting under the judgment or order of, any court; banks, finance companies, or other loan agencies that acquire motor vehicles as an incident to their regular business; motor vehicle brokers; and motor vehicle rental and leasing companies that sell motor vehicles to motor vehicle dealers licensed under this section. Vehicles owned under circumstances described in this paragraph may be disposed of at retail, wholesale, or auction, unless otherwise restricted. A manufacturer of fire trucks, ambulances, or school buses may sell such vehicles directly to governmental agencies or to persons who contract to perform or provide firefighting, ambulance, or school transportation services exclusively to governmental agencies without processing such sales through dealers if such fire trucks, ambulances, school buses, or similar vehicles are not presently available through motor vehicle dealers licensed by the department.

(f) "Bona fide employee" means a person who is employed by a licensed motor vehicle dealer and receives annually an Internal Revenue Service Form W-2, or an independent contractor who has a written contract with a licensed motor vehicle dealer and receives annually an Internal Revenue Service Form 1099, for the purpose of acting in the capacity of or conducting motor vehicle sales transactions as a motor vehicle dealer.

(7) CERTIFICATE OF TITLE REQUIRED.—For each used motor vehicle in the possession of a licensee and offered for sale by him or her, the licensee either shall have in his or her possession *or control* a duly assigned certificate of title from the owner in accordance with the provisions of chapter 319, from the time when the motor vehicle is delivered to the licensee and offered for sale by him or her until it has been disposed of by the licensee, or shall have reasonable indicia of ownership or right of possession, or shall have made proper application for a certificate of title or duplicate certificate of title in accordance with the provisions of chapter 319. A motor vehicle dealer may not sell or offer for sale a vehicle in his or her possession unless the dealer satisfies the requirements of this subsection. Reasonable indicia of ownership shall include a duly assigned certificate of title; in the case of a new motor vehicle, a manufacturer's certificate of origin issued to or reassigned to the dealer; a consignment contract between the owner and the dealer along with a secure power of attorney from the owner to the dealer authorizing the dealer to apply for a duplicate certificate of title and assign the title on behalf of the owner; a court order awarding title to the vehicle to the dealer; a salvage certificate of title; a photocopy of a duly assigned certificate of title being held by a financial institution as collateral for a business loan of money to the dealer ("floor plan"); a copy of a canceled check or other documentation evidencing that an outstanding lien on a vehicle taken in trade by a licensed dealer has been satisfied and that the certificate of title will be, but has not yet been, received by the dealer; a vehicle purchase order or installment contract for a specific vehicle identifying that vehicle as a trade-in on a replacement vehicle; or a duly executed odometer disclosure statement as required by Title IV of the Motor Vehicle Information and Cost Savings Act of 1972 (Pub. L. No. 92-513, as amended by Pub. L. No. 94-364 and Pub. L. No. 100-561) and by 49 C.F.R. part 580 bearing the signatures of the titled owners of a traded-in vehicle.

(9) DENIAL, SUSPENSION, OR REVOCATION.—The department may deny, suspend, or revoke any license issued hereunder or under the provisions of s. 320.77 or s. 320.771, upon proof that a licensee has failed to comply with any of the following provisions ~~with sufficient frequency so as to establish a pattern of wrongdoing on the part of the licensee~~:

(a) Willful violation of any other law of this state, including chapter 319, this chapter, or ss. 559.901-559.9221, which has to do with dealing in or repairing motor vehicles or mobile homes or willful failure to comply with any administrative rule promulgated by the department. Additionally, in the case of used motor vehicles, the willful violation of the federal law and rule in 15 U.S.C. s. 2304, 16 C.F.R. part 455, pertaining to the consumer sales window form.

(b) Commission of fraud or willful misrepresentation in application for or in obtaining a license.

(c) Perpetration of a fraud upon any person as a result of dealing in motor vehicles, including, without limitation, the misrepresentation to any person by the licensee of the licensee's relationship to any manufacturer, importer, or distributor.

(d) Representation that a demonstrator is a new motor vehicle, or the attempt to sell or the sale of a demonstrator as a new motor vehicle without written notice to the purchaser that the vehicle is a demonstrator. For the purposes of this section, a "demonstrator," a "new motor vehicle," and a "used motor vehicle" shall be defined as under s. 320.60.

(e) Unjustifiable refusal to comply with a licensee's responsibility under the terms of the new motor vehicle warranty issued by its respective manufacturer, distributor, or importer. However, if such refusal is at the direction of the manufacturer, distributor, or importer, such refusal shall not be a ground under this section.

(f) Misrepresentation or false, deceptive, or misleading statements with regard to the sale or financing of motor vehicles which any motor vehicle dealer has, or causes to have, advertised, printed, displayed, published, distributed, broadcast, televised, or made in any manner with regard to the sale or financing of motor vehicles.

(g) Requirement by any motor vehicle dealer that a customer or purchaser accept equipment on his or her motor vehicle which was not ordered by the customer or purchaser.

(h) Requirement by any motor vehicle dealer that any customer or purchaser finance a motor vehicle with a specific financial institution or company.

(i) Failure by any motor vehicle dealer to provide a customer or purchaser with an odometer disclosure statement and a copy of any bona fide written, executed sales contract or agreement of purchase connected with the purchase of the motor vehicle purchased by the customer or purchaser.

(j) Failure of any motor vehicle dealer to comply with the terms of any bona fide written, executed agreement, pursuant to the sale of a motor vehicle.

(k) Requirement by the motor vehicle dealer that the purchaser of a motor vehicle contract with the dealer for physical damage insurance.

(l) Violation of any of the provisions of s. 319.35 by any motor vehicle dealer.

(m) Either a history of bad credit or an unfavorable credit rating as revealed by the applicant's official credit report or by investigation by the department.

(n) Failure to disclose damage to a new motor vehicle as defined in s. 320.60(10) of which the dealer had actual knowledge if the dealer's actual cost of repair, excluding tires, bumpers, and glass, exceeds 3 percent of the manufacturer's suggested retail price; provided, however, if only the application of exterior paint is involved, disclosure shall be made if such touch-up paint application exceeds $100.

(o) Failure to apply for transfer of a title as prescribed in s. 319.23(6).

(p) Use of the dealer license identification number by any person other than the licensed dealer or his or her designee.

(q) Conviction of a felony.

(r) Failure to continually meet the requirements of the licensure law.

(s) *A person who has been* ~~When a motor vehicle dealer is~~ convicted of a crime*, infraction, or violation as set forth in paragraph (g)* ~~which results in his or her being prohibited from continuing in that capacity, the dealer~~ may not *serve* ~~continue~~ in any capacity within the industry. *Such person* ~~The offender~~ shall have no financial interest, management, sales, or other role in the operation of a dealership. Further, the *person* ~~offender~~ may not derive income from the dealership beyond reasonable compensation for the sale of his or her ownership interest in the business. *The license or application of any dealership in which such person has an interest or plays a role in violation of this subsection shall be denied or revoked, as the case may be.*

(t) Representation to a customer or any advertisement to the general public representing or suggesting that a motor vehicle is a new motor vehicle if such vehicle lawfully cannot be titled in the name of the customer or other member of the general public by the seller using a manufacturer's statement of origin as permitted in s. 319.23(1).

(u) Failure to honor a bank draft or check given to a motor vehicle dealer for the purchase of a motor vehicle by another motor vehicle dealer within 10 days after notification that the bank draft or check has been dishonored. A single violation of this paragraph is sufficient for revocation or suspension. If the transaction is disputed, the maker of the bank draft or check shall post a bond in accordance with the provisions of s. 559.917, and no proceeding for revocation or suspension shall be commenced until the dispute is resolved.

(v) Sale by a motor vehicle dealer of a vehicle offered in trade by a customer prior to consummation of the sale, exchange, or transfer of a newly acquired vehicle to the customer, unless the customer provides written authorization for the sale of the trade-in vehicle prior to delivery of the newly acquired vehicle.

Section 40. Paragraph (a) of subsection (11) of section 320.60, Florida Statutes, is amended and a new subsection (15) is added to read:

320.60 Definitions for ss. 320.61-320.70.—Whenever used in ss. 320.61-320.70, unless the context otherwise requires, the following words and terms have the following meanings:

(11)(a) "Motor vehicle dealer" means any person, firm, *company,* ~~or~~ corporation*, or other entity,* who,

1. Is licensed pursuant to s. 320.27 as a "franchised motor vehicle dealer" and, for commission, money or other things of value, repairs or services motor vehicles or used motor vehicles pursuant to an agreement as defined in subsection (1), or

2. Who sells, exchanges, buys, *leases* or rents, or offers, or attempts to negotiate a sale or exchange of any interest in, motor vehicles*,* or

3. Who is engaged wholly or in part in the business of selling motor vehicles, whether or not such motor vehicles are owned by such person, firm, *company,* or corporation.

(15) "Sell," "selling," "sold," "exchange," "retail sales," and "leases" includes any transaction where the title of motor vehicle or used motor vehicle is transferred to a retail consumer, and also any retail lease transaction where a retail customer leases a vehicle for a period of at least 12 months. Establishing a price for sale pursuant to s. 320.64(24) does not constitute a sale or lease.

Section 41. Subsection (4) of section 320.61, Florida Statutes, is amended to read:

320.61 Licenses required of motor vehicle manufacturers, distributors, importers, etc.—

(4) When a complaint of unfair *or prohibited* cancellation *or nonrenewal* of a dealer agreement is made by a motor vehicle dealer against a licensee and *such complaint is pending* ~~is in the process of being heard~~ pursuant to ss. 320.60-320.70 ~~by the department~~, no replacement application for such agreement shall be granted *and no license shall be issued by the department under s. 320.27 to any replacement dealer* until a final decision is rendered ~~by the department~~ on the complaint of unfair cancellation*, so long as the dealer agreement of the complaining dealer is in effect as provided under s. 320.641(7).*

Section 42. Subsections (13) and (16) are stricken, subsections (14), (15), and (17)-(23) are renumbered, subsection (20) is amended and renumbered as (18), and subsections (22)-(33) are added to section 320.64, Florida Statutes, to read:

320.64 Denial, suspension, or revocation of license; grounds.—A license *of a licensee under s. 320.61* may be denied, suspended, or revoked within the entire state or at any specific location or locations within the state at which the applicant or licensee engages or proposes to engage in business, *upon a proof that the section was violated with sufficient frequency to establish a pattern of wrongdoing and a licensee or applicant shall be liable for claims and remedies provided in s. 320.695 and s. 320.697 for any violation of any of the following provisions. A licensee is prohibited from committing the following acts:* ~~upon proof that an applicant or licensee has failed to comply with any of the following provisions with sufficient frequency so as to establish a pattern of wrongdoing on the part of the applicant:~~

(18)~~(20)~~ The applicant or licensee has established a system of motor vehicle allocation or distribution or has implemented a system of allocation or distribution of motor vehicles to one or more of its franchised motor vehicle dealers which is unfair, inequitable, unreasonably discriminatory, or not supportable by reason and good cause after considering the equities of the affected motor vehicles dealer or dealers. *An applicant or licensee shall maintain for 3 years records that describe its methods or formula of allocation and distribution of its motor vehicles and records of its actual allocation and distribution of motor vehicles to its motor vehicle dealers in this state.*

(22) The applicant or licensee has refused to deliver, in reasonable quantities and within a reasonable time, to any duly licensed motor vehicle dealer who has an agreement with such applicant or licensee for the retail sale of new motor vehicles and parts for motor vehicles sold or distributed by the applicant or licensee, any such motor vehicles or parts as are covered by such agreement. Such refusal includes the failure to offer to its same line-make franchised motor vehicle dealers all models manufactured for that line-make, or requiring a dealer to pay any extra fee, require a dealer to execute a separate franchise agreement, purchase unreasonable advertising displays or other materials, or remodel, renovate, or recondition the dealer's existing facilities, or provide exclusive facilities as a prerequisite to receiving a model or series of vehicles. However, the failure to deliver any motor vehicle or part will not be considered a violation of this section if the failure is due to an act of God, work stoppage, or delay due to a strike or labor difficulty, a freight embargo, product shortage, or other cause over which the applicant or licensee has no control. An applicant or licensee may impose reasonable requirements on the motor vehicle dealer, other than the items listed

above, including, but not limited to, the purchase of special tools required to properly service a motor vehicle, the undertaking of sales person or service person training related to the motor vehicle.

(23) The applicant or licensee has competed or is competing with respect to any activity covered by the franchise agreement with a motor vehicle dealer of the same line-make located in this state with whom the applicant or licensee has entered into a franchise agreement, except as permitted in s. 320.645.

(24) The applicant or licensee has sold a motor vehicle to any retail consumer in the state except through a motor vehicle dealer holding a franchise agreement for the line-make that includes the motor vehicle. This section does not apply to sales by the applicant or licensee of motor vehicles to its current employees, employees of companies affiliated by common ownership, charitable not-for-profit- organizations, and the federal government.

(25) The applicant or licensee has undertaken an audit of warranty payments or incentive payment previously paid to a motor vehicle dealer in violation of this section or has failed to comply with s. 320.696. An applicant or licensee may reasonably and periodically audit a motor vehicle dealer to determine the validity of paid claims. Audit of warranty payments shall only be for the 1-year period immediately following the date the claim was paid. Audit of incentive payments shall only be for an 18-month period immediately following the date the incentive was paid. An applicant or licensee shall not deny a claim or charge a motor vehicle dealer back subsequent to the payment of the claim unless the applicant or licensee can show that the claim was false or fraudulent or that the motor vehicle dealer failed to substantially comply with the reasonable written and uniformly applied procedures of the applicant or licensee for such repairs or incentives.

(26) Notwithstanding the terms of any franchise agreement, the applicant or licensee has refused to allocate, sell, or deliver motor vehicles, charged back or withheld payments or other things of value for which the dealer is otherwise eligible under a sales promotion, program, or contest, or prevented the motor vehicle dealer from participating in any promotion, program, or contest for selling a motor vehicle to a customer who was present at the dealership and the motor vehicle dealer did not know or should not have reasonably known that the vehicle would be shipped to a foreign country. There will be a rebuttable presumption that the dealer did not know or should not have reasonably known that the vehicle would be shipped to a foreign country if the vehicle is titled in one of the fifty United States.

(27) Notwithstanding the terms of any franchise agreement, the applicant or licensee has failed or refused to indemnify and hold harmless any motor vehicle dealer against any judgment for damages, or settlements agreed to by the applicant or licensee, including, without limitation, court costs and reasonable attorneys fees, arising out of complaints, claims, or lawsuits, including, without limitation, strict liability, negligence, misrepresentation, express or implied warranty, or revocation or rescission of acceptance of the sale of a motor vehicle, to the extent the judgment or settlement relates to the alleged negligent manufacture, design, or assembly of motor vehicles, parts, or accessories. Nothing herein shall obviate the licensee's obligations pursuant to chapter 681.

(28) The applicant or licensee has published, disclosed, or otherwise made available in any form information provided by a motor vehicle dealer with respect to sales prices of motor vehicles or profit per motor vehicle sold. Other confidential financial information provided by motor vehicle dealers shall not be published, disclosed, or otherwise made publicly available except in composite form. However, this information may be disclosed with the written consent of the dealer or in response to a subpoena or order of the Department, a court or a lawful tribunal, or introduced into evidence in such a proceeding, after timely notice to an affected dealer.

(29) The applicant or licensee has failed to reimburse a motor vehicle dealer in full for the reasonable cost of providing a loaner vehicle to any customer who is having a vehicle serviced at the motor vehicle dealer, if a loaner is required by the applicant or licensee, or a loaner is expressly part of an applicant or licensee's customer satisfaction index or computation.

(30) The applicant or licensee has conducted or threatened to conduct any audit of a motor vehicle dealer in order to coerce or attempt to coerce the dealer to forego any rights granted to the dealer under ss. 320.60-320.70 or under the agreement between the licensee and the motor vehicle dealer. Nothing in this section shall prohibit an applicant or licensee from reasonably and periodically auditing a dealer to determine the validity of paid claims.

(31) From and after the effective date of enactment of this provision, the applicant or licensee has offered to any motor vehicle dealer a franchise agreement that:

(a) Requires that a motor vehicle dealer bring an administrative or legal action in a venue outside of this state, or

(b) Requires that any arbitration, mediation, or other legal proceeding be conducted outside of this state, or

(c) Requires that a law of a state other than Florida be applied to any legal proceeding between a motor vehicle dealer and a licensee.

(32) Notwithstanding the terms of any franchise agreement, the applicant or licensee has rejected or withheld approval of any proposed transfer in violation of s. 320.643 or a proposed change of executive management in violation of s. 320.644.

Section 43. Section 320.641, Florida Statutes, is amended and a new subsection (8) is added to read:

320.641 *Discontinuations, cancellations, nonrenewals, modifications, and replacement*~~Unfair cancellation~~ of franchise agreements.—

(1)(a) An applicant or licensee shall give written notice to the motor vehicle dealer and the department of the licensee's intention to discontinue, cancel, or fail to renew a franchise agreement or of the licensee's intention to modify a franchise or replace a franchise with a succeeding franchise, which modification or replacement will adversely alter the rights or obligations of a motor vehicle dealer under an existing franchise agreement or will substantially impair the sales, service obligations, or investment of the motor vehicle dealer, at least 90 days before the effective date thereof, together with the specific grounds for such action.

(b) The failure by the licensee to comply with the 90-day notice period and procedure prescribed herein shall render voidable, at the option of the motor vehicle dealer, any discontinuation, cancellation, nonrenewal, modification, or replacement of any franchise agreement. Designation of a franchise agreement at a specific location as a "nondesignated point" shall be deemed an evasion of this section and constitutes an unfair cancellation.

(2) Franchise agreements are deemed to be continuing unless the applicant or licensee has notified the department of the discontinuation of, cancellation of, failure to renew, modification of, or replacement of the agreement of any of its motor vehicle dealers; and annual renewal of the license provided for under ss. 320.60-320.70 is not necessary for any cause of action against the licensee.

(3) Any motor vehicle dealer *who receives a notice of intent to discontinue, cancel, not renew, modify, or replace* ~~whose franchise agreement is discontinued, canceled, not renewed, modified, or replaced~~ may, within the 90-day notice period, file a petition or complaint for a determination of whether such action is an unfair or prohibited discontinuation, cancellation, nonrenewal, modification, or replacement. Agreements and certificates of appointment shall continue in effect until final determination of the issues raised in such petition or complaint by the motor vehicle dealer. A discontinuation, cancellation, or nonrenewal of a franchise agreement is unfair if it is not clearly permitted by the franchise agreement; is not undertaken in good faith; is not undertaken for good cause; or is based on an alleged breach of the franchise agreement which is not in fact a material and substantial breach*; or, if the grounds relied upon for termination, cancellation, or*

nonrenewal have not been applied in a uniform and consistent manner by the licensee. A modification or replacement is unfair if it is not clearly permitted by the franchise agreement; is not undertaken in good faith; or is not undertaken for good cause. The applicant or licensee shall have burden of proof that such action is fair and not prohibited.

(4) Notwithstanding any other provision of this section, the failure of a motor vehicle dealer to be engaged in business with the public for 10 consecutive business days constitutes abandonment by the dealer of his or her franchise agreement. If any motor vehicle dealer abandons his or her franchise agreement, he or she has no cause of action under this section. For the purpose of this section, a dealer shall be considered to be engaged in business with the public if a sales and service facility is open and is performing such services 8 hours a day, 5 days a week, excluding holidays. However, it will not be considered abandonment if such failure to engage in business is due to an act of God, a work stoppage, or a delay due to a strike or labor difficulty, a freight embargo, or other cause over which the motor vehicle dealer has no control, including any violation of ss. 320.60-320.70.

(5) Notwithstanding any other provision of this section, if a motor vehicle dealer has abandoned his or her franchise agreement as provided in subsection (4), the licensee may give written notice to the dealer and the department of the licensee's intention to discontinue, cancel, or fail to renew the franchise agreement with the dealer at least 15 days before the effective date thereof, specifying the grounds for such action. A motor vehicle dealer receiving such notice may file a petition or complaint for determination of whether in fact there has been an abandonment of the franchise.

(6) If the complainant motor vehicle dealer prevails, he or she shall have a cause of action against the licensee for reasonable attorneys' fees and costs incurred by him or her in such proceeding, and he or she shall have a cause of action under s. 320.697.

(7) Except as provided in s. 320.643, no replacement motor vehicle dealer shall be named for this point or location to engage in business *and the franchise agreement shall remain in effect until a final judgment is entered after all appeals are exhausted, provided that, when a motor vehicle dealer appeals a decision upholding a discontinuation, cancellation, or nonrenewal based upon abandonment or revocation of the dealer's license pursuant to s. 320.27, as lawful reasons for such discontinuation, cancellation, or nonrenewal, the franchise agreement shall remain in effect pending exhaustion of all appeals only if the motor vehicle dealer establishes a likelihood of success on appeal and that the public interest will not be harmed by keeping the franchise agreement in effect pending entry of final judgment after such appeal.* ~~prior to the final adjudication by the department on the petition or complaint and the exhaustion of all appellate remedies by the canceled or discontinued dealer, if a stay is issued by either the department or an appellate court.~~

(8) If a transfer is proposed pursuant to s. 320.643(1) or (2) after a notice of intent to discontinue, cancel, or not renew a franchise agreement is received but, prior to the final determination, including exhaustion of all appellate remedies of a motor vehicle dealer's complaint or petition contesting such action, the termination proceedings shall be stayed, without bond, during the period that the transfer is being reviewed by the licensee pursuant to s. 320.643.~~,~~ During the period that the transfer is being reviewed by the licensee, pursuant to s. 320.643, the franchise agreement shall remain in full force and effect, and the motor vehicle dealer shall retain all rights and remedies pursuant to the terms and conditions of the franchise agreement and applicable law, including all rights of transfer until such time as the licensee has accepted or rejected the proposed tranfer. If the proposed transfer is rejected, the motor vehicle dealer shall retain all of its rights pursuant to s. 320.643 to an administrative determination as to whether the licensee's rejection is in compliance with the provisions of s. 320.643, and during the pendency of any such administrative proceeding, and any related appellate proceedings, the termination proceedings shall remain stayed without bond, the franchise agreement shall remain in full force and effect and the motor vehicle dealer shall retain all rights and remedies pursuant to the terms and conditions of the franchise agreement and applicable law, including all rights of transfer. If a transfer is approved by the licensee or mandated by law, the termination proceedings shall be dismissed with prejudice as moot. The subsection (8) applies only to the first two proposed transfers pursuant to s. 320.643(1) or (2) after notice of intent to discontinue, cancel, or not renew is received.

Section 44. Section 320.643, Florida Statutes, is amended to read:

320.643 Transfer, assignment, or sale of franchise agreements.—

(1) A motor vehicle dealer shall not transfer, assign, or sell a franchise agreement to another person unless the dealer first notifies the licensee of the dealer's decision to make such transfer, by written notice setting forth the prospective transferee's name, address, financial qualification, and business experience during the previous 5 years. The licensee shall, in writing, within 60 days after receipt of such notice, inform the dealer either of the licensee's approval of the transfer, assignment, or sale or of the unacceptability of the proposed transferee, setting forth the material reasons for the rejection. If the licensee does not so inform the dealer within the 60-day period, its approval of the proposed transfer is deemed granted. No such transfer, assignment, or sale will be valid unless the transferee agrees in writing to comply with all requirements of the franchise then in effect. ~~Notwithstanding the terms of any franchise agreement, the acceptance by the licensee of the proposed transferee shall not be unreasonably withheld.~~ For the purposes of this section, the refusal by the licensee to accept a proposed transferee who is of good moral character and who otherwise meets the written, reasonable, and uniformly applied standards or qualifications, if any, of the licensee relating to *financial qualifications of the transferee and* the business experience of *the transferee or* the transferee's executive management ~~required by the licensee of its motor vehicle dealers~~ is presumed to be unreasonable. A *motor vehicle dealer whose proposed sale is rejected* ~~licensee who receives such notice~~ may, within 60 days following such receipt *of such rejection*, file with the department a ~~verified~~ complaint for a determination that the proposed transferee *has been rejected in violation of* ~~is not a person qualified to be a transferee under~~ this section. The licensee has the burden of proof with respect to all issues raised by such ~~verified~~ complaint. The department shall determine, and enter an order providing, that the proposed transferee is either qualified or is not and cannot be qualified for specified reasons, or the order may provide the conditions under which a proposed transferee would be qualified. If the licensee fails to file such *a response to the motor vehicle dealer's* ~~verified~~ complaint within *30*~~such 60~~ day*s after receipt of the complaint, unless the parties agree in writing to an extension,* ~~period~~ or if the department, after a hearing, ~~dismisses the complaint or~~ renders a decision other than one disqualifying the proposed transferee, the franchise agreement between the motor vehicle dealer and the licensee shall be deemed amended to incorporate such transfer or amended in accordance with the determination and order rendered, effective upon compliance by the proposed transferee with any conditions set forth in the determination or order.

(2)(a) Notwithstanding the terms of any franchise agreement, a licensee shall not, by contract or otherwise, fail or refuse to give effect to, prevent, prohibit, or penalize, or attempt to refuse to give effect to, prevent, prohibit, or penalize, any motor vehicle dealer or any proprietor, partner, stockholder, owner, or other person who holds or otherwise owns an interest therein from selling, assigning, transferring, alienating, or otherwise disposing of, in whole or in part, the equity interest of any of them in such motor vehicle dealer to any other person or persons, including a corporation established or existing for the purpose of owning or holding the stock or ownership interests of other entities, unless the licensee proves at a hearing pursuant to this section that such sale, transfer, alienation, or other disposition is to a person who is not, or whose controlling executive management is not, of good moral character. A motor vehicle dealer, or any proprietor, partner, stockholder, owner, or other person who holds or otherwise owns an interest in the motor vehicle dealer, who desires to sell, assign, transfer, alienate, or otherwise dispose of any interest in such motor vehicle dealer shall notify, or cause the proposed transferee to so notify, the licensee, in writing, of the identity and address of the proposed transferee. A licensee who receives such notice may, within 60 days following such receipt, *notify the motor vehicle dealer in writing* ~~file with the department a verified complaint for a determination~~ that the

proposed transferee is not a person qualified to be a transferee under this section *and setting forth the material reasons for such rejection. Failure of the licensee to notify the motor vehicle dealer within the 60-day period of such rejection shall be deemed an approval of the transfer. Any person whose proposed sale of stock is rejected may file within 60 days of receipt of such rejection a complaint with the Department alleging that the rejection was in violation of the law or the franchise agreement.* The licensee has the burden of proof with respect to all issues raised by such ~~verified~~ complaint. The department shall determine, and enter an order providing, that the proposed transferee either is qualified or is not and cannot be qualified for specified reasons; or the order may provide the conditions under which a proposed transferee would be qualified. If *the licensee fails to file a response to the motor vehicle dealer's complaint within 30 days of receipt of the complaint, unless the parties agree in writing to an extension, or if* ~~the licensee fails to file such verified complaint within such 60-day period or if~~ the department, after a hearing, ~~dismisses the complaint or~~ renders a decision *on the complaint* other than one disqualifying the proposed transferee, the transfer *shall be deemed approved* ~~franchise agreement between the motor vehicle dealer and the licensee shall be deemed amended to incorporate such transfer or amended~~ in accordance with the determination and order rendered, effective upon compliance by the proposed transferee with any conditions set forth in the determination or order.

(b) During the pendency of any such hearing, the franchise agreement of the motor vehicle dealer shall continue in effect in accordance with its terms. The department shall expedite any determination requested under this section.

(3) Notwithstanding the terms of any franchise agreement, the acceptance by the licensee of the proposed transferee shall not be unreasonably withheld. For the purposes of this section, the refusal by the licensee to accept a proposed transferee who satisfies the criteria set forth in subsection (1) or (2) is presumed to be unreasonable.

Section 45. Section 320.645, Florida Statutes, is amended to read:

320.645 Restriction upon ownership of dealership by licensee.—

(1) No licensee, including a manufacturer or agent of a manufacturer, or any parent, subsidiary, common entity, or officer or representative of the licensee shall own or operate, either directly or indirectly, a motor vehicle dealership in this state for the sale or service of motor vehicles which have been or are offered for sale under a franchise agreement with a motor vehicle dealer in this state. *A licensee may not be issued a motor vehicle dealer license pursuant to s. 320.27.* However, no such licensee will be deemed to be in violation of this section:

(a) When operating a motor vehicle dealership for a temporary period, not to exceed 1 year, during the transition from one owner of the motor vehicle dealership to another;

(b) When operating a motor vehicle dealership temporarily for a reasonable period *for the exclusive purpose of broadening the diversity of its dealer body and enhancing opportunities for qualified persons who are part of a group that has historically been underrepresented in its dealer body, or for other qualified persons who the licensee deems lack the resources to purchase or capitalize the dealership outright*, ~~not to exceed 1 year, or~~ in a bona fide relationship with an independent person, other than a licensee or its agent or affiliate, who has made a significant investment that is subject to loss in the dealership *within the dealership's first year of operation* and who can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions; or

(c) If the department determines, after a hearing on the matter, pursuant to chapter 120, at the request of any person, that there is no independent person available in the community or territory to own and operate the motor vehicle dealership in a manner consistent with the public interest.

In any such case, the licensee must continue to make the motor vehicle dealership available for sale to an independent person at a fair and reasonable price. Approval of the sale of such a motor vehicle dealership to a proposed motor vehicle dealer shall not be unreasonably withheld.

(2) As used in this section, the term:

(a) "Independent person" is a person who is not an officer, director, or employee of the licensee.

(b) "Reasonable terms and conditions" requires that profits from the dealership are reasonably expected to be sufficient to allow full ownership of the dealership by the independent person within a reasonable time period not to exceed 10 years, which time period may be extended if there is a reasonable basis to do so and is not being sought to evade the purpose of this section; that the independent person has sufficient control to permit acquisition of ownership; and that the relationship cannot be terminated solely to avoid full ownership. The terms and conditions are not reasonable if they preclude the independent person from an expedited purchase of the dealership using a monetary source other than profits from the dealership's operation; provided, however, that the independent person must pay or make an agreement to pay to the licensee any and all reasonable prepayment charges and costs, including all unrecouped restored losses, associated with the expedited purchase of the dealership. For the purpose of this section, unrecouped restored losses are monies that the manufacturer has provided to the dealership to restore losses of the dealership that the manufacturer has not been paid back through profits of the dealership.

(c) "Significant investment" means a reasonable amount, considering the reasonable capital requirements of the dealership, acquired and obtained from sources other than the licensee or any of its affiliates and not encumbered by the person's interest in the dealership.

(3) Nothing in this section shall prohibit, limit, restrict, or impose conditions on:

(a) The business activities, including, without limitation, the dealings with motor vehicle manufacturers and their representatives and affiliates, of any person that is primarily engaged in the business of short term not to exceed 12 months rental of motor vehicles and industrial and construction equipment and activities incidental to that business, provided that:

1. Any motor vehicles sold by such person are limited to used motor vehicles that have been previously used exclusively and regularly by such person in the conduct of its rental business and used motor vehicles traded in on motor vehicles sold by such person;

2. Warranty repairs performed under any manufacturer's new vehicle warranty by such person on motor vehicles are limited to those motor vehicles that it owns. As to previously owned vehicles, warranty repairs can be performed only if pursuant to a motor vehicle service agreement as defined in chapter 634, part I, issued by such person or an express warranty issued by such person on the retail sale of those vehicles previously owned; and

3. Motor vehicle financing provided by such person to retail consumers for motor vehicles is limited to used motor vehicles sold by such person in the conduct of its business; or

(b) The direct or indirect ownership, affiliation or control of a person described in paragraph (a) of this subsection.

(4) This section does not apply to any dealership that is owned, controlled, or operated by a licensee on July 1, 2000.

~~(2) This section shall not be construed to prohibit any licensee from owning or operating a motor vehicle dealership in this state if such dealership was owned or operated by the licensee on May 31, 1984.~~

Section 46. Subsection (2) of section 320.699, Florida Statutes, is amended to read:

320.699 Administrative hearings and adjudications; procedure.—

(2) If a written objection or notice of protest is filed with the department under paragraph (1)(b), a hearing shall be held *not sooner than 180 days nor later than 240 days from* ~~within 180 days of~~ the date

of filing of the first objection or notice of protest, unless the time is extended by the *Administrative Law Judge for good cause shown. This subsection shall govern the schedule of hearings in lieu of any other provision of law with respect to administrative hearings conducted by the Department of Highway Safety and Motor Vehicles or the Division of Administrative Hearings, including performance standards of state agencies, which may be included in current and future appropriations acts.* ~~hearing officer for good cause shown. If a hearing is not scheduled within said time, any party may request such hearing which shall be held forthwith by the hearing officer.~~

Section 47. Section 320.6991, Florida Statutes, is created to read:

Section 320.6991 Severability.—If a provision of ss. 320.60-320.70 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of ss. 320.60-320.70 that can be given effect without the invalid provision or application, and to this end the provisions of 320.60-320.70 are severable.

Section 48. Section 320.691, Florida Statutes, is created to read:

320.691 Automobile Dealers Industry Advisory Board.—

(1) AUTOMOBILE DEALERS INDUSTRY ADVISORY BOARD.—The Automobile Dealers Industry Advisory Board is created within the Department of Highway Safety and Motor Vehicles. The board shall make recommendations on proposed legislation, make recommendations on proposed rules and procedures, present licensed motor vehicle dealer industry issues to the department for its consideration, consider any matters relating to the motor vehicle industry presented to it by the department, and submit an annual report to the Executive Director of the department and file copies with the Governor, President of the Senate, and the Speaker of the House of Representatives.

(2) MEMBERSHIP, TERMS, MEETINGS.—

(a) The board shall be composed of 12 members. The Executive Director of the Department of Highway Safety and Motor Vehicles shall appoint the members from names submitted by the entities for the designated categories the member will represent. The Executive Director shall appoint one representative of the Department of Highway Safety and Motor Vehicles, who must represent the Division of Motor Vehicles; two representatives of the independent motor vehicle industry as recommended by the Florida Independent Automobile Dealers Association; two representatives of the franchise motor vehicle industry as recommended by the Florida Automobile Dealers Association; one representative of the auction motor vehicle industry who is from an auction chain and is recommended by a group affiliated with the National Auto Auction Association; one representative of the auction motor vehicle industry who is from an independent auction and is recommended by a group affiliated with the National Auto Auction Association; one representative from the Department of Revenue; a Florida Tax Collector representative recommended by the Florida Tax Collectors Association; one representative from the Better Business Bureau; one representative from the Department of Agriculture and Consumer Services, who must represent the Division of Consumer Services; and one representative of the insurance industry who writes motor vehicle dealer surety bonds.

(b)1. The Executive Director shall appoint the following initial members to 1-year terms: one representative from the motor vehicle auction industry who represents an auction chain, one representative from the independent motor vehicle industry, one representative from the franchise motor vehicle industry, one representative from the Department of Revenue, one Florida Tax Collector, and one representative from the Better Business Bureau.

2. The Executive Director shall appoint the following initial members to 2-year terms: one representative from the motor vehicle auction industry who represents an independent auction, one representative from the independent motor vehicle industry, one representative from the franchise motor vehicle industry, one representative from the Division of Consumer Services, one representative from the insurance industry, and one representative from the Division of Motor Vehicles.

3. As the initial terms expire, the Executive Director shall appoint successors from the same designated category for terms of 2 years. If renominated, a member may succeed himself or herself.

4. The board shall appoint a chair and vice chair at its initial meeting and every 2 years thereafter.

(c) The board shall meet at least two times per year. Meetings may be called by the chair of the board or by the Executive Director of the department. One meeting shall be held in the fall of the year to review legislative proposals. The board shall conduct all meetings in accordance with applicable Florida Statutes and shall keep minutes of all meetings. Meetings may be held in locations around the state in department facilities or in other appropriate locations.

(3) PER DIEM, TRAVEL, AND STAFFING.—Members of the board from the private sector are not entitled to per diem or reimbursement for travel expenses. However, members of the board from the public sector are entitled to reimbursement, if any, from their respective agency. Members of the board may request assistance from the Department of Highway Safety and Motor Vehicles as necessary.

Section 49. Subsection (26) of section 322.01, Florida Statutes, is amended to read:

322.01 Definitions.—As used in this chapter:

(26) "Motor vehicle" means any self-propelled vehicle, including a motor vehicle combination, not operated upon rails or guideway, excluding vehicles moved solely by human power, motorized wheelchairs, *motorized scooters,* and motorized bicycles as defined in s. 316.003.

Section 50. Subsections (4) and (5) are added to section 322.0261, Florida Statutes, to read:

322.0261 Mandatory driver improvement course; certain crashes.—

(4) The Department of Highway Safety and Motor Vehicles shall approve and regulate courses that use technology as the delivery method of all driver improvement schools as the courses relate to this section.

(5) In determining whether to approve courses of driver improvement schools that use technology as the delivery method as the courses relate to this section, the department shall consider only those courses submitted by a person, business, or entity which receive:

(a) Approval for statewide delivery.

(b) Independent scientific research evidence of course effectiveness.

Section 51. Section 322.161, Florida Statutes, is amended to read:

322.161 High-risk drivers; restricted licenses.—

(1)(a) Notwithstanding any provision of law to the contrary, the department shall restrict the driving privilege of any Class D or Class E licensee who is age 15 through 17 and who has accumulated *six* ~~four~~ or more points pursuant to s. 318.14, excluding parking violations, within a 12-month period.

(b) Upon determination that any person has accumulated *six* ~~four~~ or more points, the department shall notify the licensee and issue the licensee a restricted license for business purposes only. The licensee must appear before the department within 10 days after notification to have this restriction applied. The period of restriction shall be for a period of no less than 1 year beginning on the date it is applied by the department.

(c) The restriction shall be automatically withdrawn by the department after 1 year if the licensee does not accumulate any additional points. If the licensee accumulates any additional points, then the period of restriction shall be extended 90 days for each point. The restriction shall also be automatically withdrawn upon the licensee's 18th birthday if no other grounds for restriction exist. The licensee must appear before the department to have the restriction removed and a duplicate license issued.

(2)(a) Any Class E licensee who is age 15 through 17 and who has accumulated *six* ~~four~~ or more points pursuant to s. 318.14, excluding parking violations, within a 12-month period shall not be eligible to obtain a Class D license for a period of no less than 1 year. The period of ineligibility shall begin on the date of conviction for the violation that results in the licensee's accumulation of *six* ~~four~~ or more points.

(b) The period of ineligibility shall automatically expire after 1 year if the licensee does not accumulate any additional points. If the licensee accumulates any additional points, then the period of ineligibility shall be extended 90 days for each point. The period of ineligibility shall also automatically expire upon the licensee's 18th birthday if no other grounds for ineligibility exist.

(3) Any action taken by the department pursuant to this section shall not be subject to any formal or informal administrative hearing or similar administrative procedure.

(4) The department shall adopt rules to carry out the purposes of this section.

Section 52. Subsection (4) of section 322.05, Florida Statutes, is amended to read:

322.05 Persons not to be licensed.—The department may not issue a license:

(4) Except as provided by this subsection, to any person, as a Class A licensee, Class B licensee, Class C licensee, or Class D licensee, who is under the age of 18 years. A person age 16 or 17 years who applies for a Class D driver's license is subject to all the requirements and provisions of ss. *322.05(2)(a) and (b),* 322.09*,* and 322.16(2) and (3). ~~Any person who applies for a Class D driver's license who is age 16 or 17 years must have had a learner's driver's license or a driver's license for at least 90 days before he or she is eligible to receive a Class D driver's license.~~ The department may require of any such applicant for a Class D driver's license such examination of the qualifications of the applicant as the department considers proper, and the department may limit the use of any license granted as it considers proper.

Section 53. Paragraph (b) of subsection (4) and subsections (5), (6), and (7) of section 322.081, Florida Statutes, are amended, and subsection (8) is added to said section, to read:

322.081 Requests to establish voluntary *check-off* ~~checkoff~~ on driver's license application.—

(4)

(b) The department is authorized to discontinue the voluntary contribution and distribution of associated proceeds if the organization no longer exists, if the organization has stopped providing services that are authorized to be funded from the voluntary contributions, or pursuant to an organizational recipient's request. *Organizations are required to notify the department immediately to stop warrants for voluntary check-off contribution, if any of the conditions in this subsection exist, and must meet the requirements of paragraph (5)(b) or paragraph (5)(c), if applicable, for any period of operation during the fiscal year.*

(5) A voluntary contribution collected and distributed under this chapter, or any interest earned from those contributions, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by law~~, or to pay the cost of the audit or report required by law~~.

(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that proceeds are used in accordance with law.

~~(b) All organizational recipients of any voluntary contributions in excess of $15,000, not otherwise subject to annual audit by the Office of the Auditor General, shall submit an annual audit of the expenditures of these contributions and interest earned from these contributions, to determine if expenditures are being made in accordance with the specifications outlined by law. The audit shall be prepared by a certified public accountant licensed under chapter 473 at that organizational recipient's expense. The notes to the financial statements should state whether expenditures were made in accordance with law.~~

(b)~~(c)~~ *Any organization not subject to* ~~In lieu of an annual~~ audit *pursuant to s. 215.97 shall*~~, any organization receiving less than $15,000 in voluntary contributions directly from the department may~~ annually *attest* ~~report~~, under penalties of perjury, that such proceeds were used in compliance with law. The attestation shall be made annually in a form and format determined by the department.

(c)~~(d)~~ Any voluntary contributions authorized by law shall only be distributed to an organization under an appropriation by the Legislature.

(d)~~(c)~~ *Any organization subject to audit pursuant to s. 215.97 shall submit an audit report in accordance with rules promulgated by the Auditor General.* The annual *attestation* ~~audit or report~~ must be submitted to the department for review within *9 months* ~~180 days~~ after the end of the organization's fiscal year.

(6) Within 90 days after receiving an organization's audit or *attestation* ~~report~~, the department shall determine which recipients have not complied with subsection (5). If the department determines that an organization has not complied or has failed to use the revenues in accordance with law, the department must discontinue the distribution of the revenues to the organization until the department determines that the organization has complied. If an organization fails to comply within 12 months after the voluntary contributions are withheld by the department, the proceeds shall be deposited into the Highway Safety Operating Trust Fund to offset department costs.

(7) The ~~Auditor General and the~~ department *has* ~~have~~ the authority to examine all records pertaining to the use of funds from the voluntary contributions authorized.

(8) All organizations seeking to establish a voluntary contribution on a driver's license application that are required to operate under the Solicitation of Contributions Act, as provided in chapter 496, must do so before funds may be distributed.

Section 54. Present subsections (2) through (7) of section 322.095, Florida Statutes, are renumbered as subsections (4) through (9), respectively, and new subsections (2) and (3) are added to said section, to read:

322.095 Traffic law and substance abuse education program for driver's license applicants.—

(2) The Department of Highway Safety and Motor Vehicles shall approve and regulate courses that use technology as the delivery method of all driver improvement schools as the courses relate to this section.

(3) In determining whether to approve courses of driver improvement schools that use technology as the delivery method as the courses relate to this section, for courses submitted on or after July 1, 2001, the department shall consider only those courses submitted by a person, business, or entity which receive:

(a) Approval for statewide delivery.

(b) Independent scientific research evidence of course effectiveness.

Section 55. Section 322.222, Florida Statutes, is created to read:

322.222 Right to review.—A driver may request an administrative hearing to review a revocation pursuant to s. 322.221(3). The hearing shall be held in accordance with the department's administrative rules that the department shall have promulgated pursuant to chapter 120.

Section 56. Subsection (7) of section 322.25, Florida Statutes, is amended to read:

322.25 When court to forward license to department and report convictions; temporary reinstatement of driving privileges.—

(7) Any licensed driver convicted of driving, or being in the actual physical control of, a vehicle within this state while under the influence

of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that his or her normal faculties are impaired, and whose license and driving privilege have been revoked as provided in subsection (1) may be issued a court order for reinstatement of a driving privilege on a temporary basis; provided that, as a part of the penalty, upon conviction, the defendant is required to enroll in and complete a driver improvement course for the rehabilitation of drinking drivers and the driver is otherwise eligible for reinstatement of the driving privilege ~~as provided by s. 322.282~~. The court order for reinstatement shall be on a form provided by the department and must be taken by the person convicted to a Florida driver's license examining office, where a temporary driving permit may be issued. The period of time for which a temporary permit issued in accordance with this subsection is valid shall be deemed to be part of the period of revocation imposed by the court.

Section 57. Subsections (1), (3), and (10) of section 322.2615, Florida Statutes, are amended to read:

322.2615 Suspension of license; right to review.—

(1)(a) A law enforcement officer or correctional officer shall, on behalf of the department, suspend the driving privilege of a person who has been arrested by a law enforcement officer for a violation of s. 316.193, relating to unlawful blood-alcohol level or breath-alcohol level, or of a person who has refused to submit to a breath, urine, or blood test authorized by s. 316.1932. The officer shall take the person's driver's license and issue the person a *10-day* ~~30-day~~ temporary permit if the person is otherwise eligible for the driving privilege and shall issue the person a notice of suspension. If a blood test has been administered, the results of which are not available to the officer at the time of the arrest, the agency employing the officer shall transmit such results to the department within 5 days after receipt of the results. If the department then determines that the person was arrested for a violation of s. 316.193 and that the person had a blood-alcohol level or breath-alcohol level of 0.08 or higher, the department shall suspend the person's driver's license pursuant to subsection (3).

(b) The suspension under paragraph (a) shall be pursuant to, and the notice of suspension shall inform the driver of, the following:

1.a. The driver refused to submit to a lawful breath, blood, or urine test and his or her driving privilege is suspended for a period of 1 year for a first refusal or for a period of 18 months if his or her driving privilege has been previously suspended as a result of a refusal to submit to such a test; or

b. The driver violated s. 316.193 by driving with an unlawful blood-alcohol level as provided in that section and his or her driving privilege is suspended for a period of 6 months for a first offense or for a period of 1 year if his or her driving privilege has been previously suspended for a violation of s. 316.193.

2. The suspension period shall commence on the date of arrest or issuance of the notice of suspension, whichever is later.

3. The driver may request a formal or informal review of the suspension by the department within 10 days after the date of arrest or issuance of the notice of suspension, whichever is later.

4. The temporary permit issued at the time of arrest will expire at midnight of the *10th* ~~30th~~ day following the date of arrest or issuance of the notice of suspension, whichever is later.

5. The driver may submit to the department any materials relevant to the arrest.

(3) If the department determines that the license of the person arrested should be suspended pursuant to this section and if the notice of suspension has not already been served upon the person by a law enforcement officer or correctional officer as provided in subsection (1), the department shall issue a notice of suspension and, unless the notice is mailed pursuant to s. 322.251, a temporary permit which expires *10* ~~30~~ days after the date of issuance if the driver is otherwise eligible.

(10) A person whose driver's license is suspended under subsection (1) or subsection (3) may apply for issuance of a license for business or employment purposes only if the person is otherwise eligible for the driving privilege pursuant to s. 322.271.

(a) If the suspension of the driver's license of the person for failure to submit to a breath, urine, or blood test is sustained, the person is not eligible to receive a license for business or employment purposes only, pursuant to s. 322.271, until 90 days have elapsed after the expiration of the last temporary permit issued. If the driver is not issued a *10-day* ~~30-day~~ permit pursuant to this section or s. 322.64 because he or she is ineligible for the permit and the suspension for failure to submit to a breath, urine, or blood test is not invalidated by the department, the driver is not eligible to receive a business or employment license pursuant to s. 322.271 until 90 days have elapsed from the date of the suspension.

(b) If the suspension of the driver's license of the person arrested for a violation of s. 316.193, relating to unlawful blood-alcohol level, is sustained, the person is not eligible to receive a license for business or employment purposes only pursuant to s. 322.271 until 30 days have elapsed after the expiration of the last temporary permit issued. If the driver is not issued a *10-day* ~~30-day~~ permit pursuant to this section or s. 322.64 because he or she is ineligible for the permit and the suspension for a violation of s. 316.193, relating to unlawful blood-alcohol level, is not invalidated by the department, the driver is not eligible to receive a business or employment license pursuant to s. 322.271 until 30 days have elapsed from the date of the arrest.

Section 58. Subsection (5) of section 322.27, Florida Statutes, is amended to read:

322.27 Authority of department to suspend or revoke license.—

(5) The department shall revoke the license of any person designated a habitual offender, as set forth in s. 322.264, and such person shall not be eligible to be relicensed for ~~a minimum of~~ 5 years from the date of revocation, except as provided for in s. 322.271. Any person whose license is revoked may, by petition to the department, show cause why his or her license should not be revoked.

Section 59. Subsection (2) of section 322.28, Florida Statutes, is amended to read:

322.28 Period of suspension or revocation.—

(2) In a prosecution for a violation of s. 316.193 or former s. 316.1931, the following provisions apply:

(a) Upon conviction of the driver, the court, along with imposing sentence, shall revoke the driver's license or driving privilege of the person so convicted, effective on the date of conviction, and shall prescribe the period of such revocation in accordance with the following provisions:

1. Upon a first conviction for a violation of the provisions of s. 316.193, except a violation resulting in death, the driver's license or driving privilege shall be revoked for not less than 180 days or more than 1 year.

2. Upon a second conviction within a period of 5 years from the date of a prior conviction for a violation of the provisions of s. 316.193 or former s. 316.1931 or a combination of such sections, the driver's license or driving privilege shall be revoked for not less than 5 years.

3. Upon a third conviction within a period of 10 years from the date of conviction of the first of three or more convictions for the violation of the provisions of s. 316.193 or former s. 316.1931 or a combination of such sections, the driver's license or driving privilege shall be revoked for not less than 10 years.

For the purposes of this paragraph, a previous conviction outside this state for driving under the influence, driving while intoxicated, driving with an unlawful blood-alcohol level, or any other alcohol-related or drug-related traffic offense similar to the offense of driving under the influence as proscribed by s. 316.193 will be considered a previous

conviction for violation of s. 316.193, and a conviction for violation of former s. 316.028, former s. 316.1931, or former s. 860.01 is considered a conviction for violation of s. 316.193.

(b) If the period of revocation was not specified by the court at the time of imposing sentence or within 30 days thereafter, and is not otherwise specified by law, the department shall forthwith revoke the driver's license or driving privilege for the maximum period applicable under paragraph (a) for a first conviction and for the minimum period applicable under paragraph (a) for any subsequent convictions. The driver may, within 30 days after such revocation by the department, petition the court for further hearing on the period of revocation, and the court may reopen the case and determine the period of revocation within the limits specified in paragraph (a).

(c) The forfeiture of bail bond, not vacated within 20 days, in any prosecution for the offense of driving while under the influence of alcoholic beverages, chemical substances, or controlled substances to the extent of depriving the defendant of his or her normal faculties shall be deemed equivalent to a conviction for the purposes of this paragraph, and the department shall forthwith revoke the defendant's driver's license or driving privilege for the maximum period applicable under paragraph (a) for a first conviction and for the minimum period applicable under paragraph (a) for a second or subsequent conviction; however, if the defendant is later convicted of the charge, the period of revocation imposed by the department for such conviction shall not exceed the difference between the applicable maximum for a first conviction or minimum for a second or subsequent conviction and the revocation period under this subsection that has actually elapsed; upon conviction of such charge, the court may impose revocation for a period of time as specified in paragraph (a). This paragraph does not apply if an appropriate motion contesting the forfeiture is filed within the 20-day period.

~~(d) When any driver's license or driving privilege has been revoked pursuant to the provisions of this section, the department shall not grant a new license, except upon reexamination of the licensee after the expiration of the period of revocation so prescribed. However, the court may, in its sound discretion, issue an order of reinstatement on a form furnished by the department which the person may take to any driver's license examining office for reinstatement by the department pursuant to s. 322.282.~~

(d)~~(e)~~ The court shall permanently revoke the driver's license or driving privilege of a person who has been convicted four times for violation of s. 316.193 or former s. 316.1931 or a combination of such sections. The court shall permanently revoke the driver's license or driving privilege of any person who has been convicted of DUI manslaughter in violation of s. 316.193. If the court has not permanently revoked such driver's license or driving privilege within 30 days after imposing sentence, the department shall permanently revoke the driver's license or driving privilege pursuant to this paragraph. No driver's license or driving privilege may be issued or granted to any such person. This paragraph applies only if at least one of the convictions for violation of s. 316.193 or former s. 316.1931 was for a violation that occurred after July 1, 1982. For the purposes of this paragraph, a conviction for violation of former s. 316.028, former s. 316.1931, or former s. 860.01 is also considered a conviction for violation of s. 316.193. Also, a conviction of driving under the influence, driving while intoxicated, driving with an unlawful blood-alcohol level, or any other similar alcohol-related or drug-related traffic offense outside this state is considered a conviction for the purposes of this paragraph.

Section 60. *Section 322.282, Florida Statutes, is repealed.*

Section 61. Subsection (3) is added to section 322.292, Florida Statutes, to read:

322.292 DUI programs supervision; powers and duties of the department.—

(3) DUI programs shall be either governmental programs or not-for-profit corporations.

Section 62. *Section 322.331, Florida Statutes, is repealed.*

Section 63. Subsections (8), (9), and (10) are added to section 322.61, Florida Statutes, to read:

322.61 Disqualification from operating a commercial motor vehicle.—

(8) A driver who is convicted of or otherwise found to have committed a violation of an out-of-service order while driving a commercial motor vehicle is disqualified as follows:

(a) Not less than 90 days nor more than 1 year if the driver is convicted of or otherwise found to have committed a first violation of an out-of-service order.

(b) Not less than 1 year nor more than 5 years if, during any 10-year period, the driver is convicted of or otherwise found to have committed two violations of out-of-service orders in separate incidents.

(c) Not less than 3 years nor more than 5 years if, during any 10-year period, the driver is convicted of or otherwise found to have committed three or more violations of out-of-service orders in separate incidents.

(d) Not less than 180 days nor more than 2 years if the driver is convicted of or otherwise found to have committed a first violation of an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, 49 U.S.C. 5101 et seq., or while operating motor vehicles designed to transport more than 15 passengers, including the driver. A driver is disqualified for a period of not less than 3 years nor more than 5 years if, during any 10-year period, the driver is convicted of or otherwise found to have committed any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act 49 U.S.C. 5101 et seq., or while operating motor vehicles designed to transport more than 15 passengers, including the driver.

(9) A driver who is convicted of or otherwise found to have committed an offense of operating a CMV in violation of federal, state, or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing must be disqualified for the period of time specified in subsection (10):

(a) For drivers who are not always required to stop, failing to slow down and check that the tracks are clear of approaching trains.

(b) For drivers who are not always required to stop, failing to stop before reaching the crossing if the tracks are not clear.

(c) For drivers who are always required to stop, failing to stop before driving onto the crossing.

(d) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping.

(e) For all drivers, failing to obey a traffic control device or all directions of an enforcement official at the crossing.

(f) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(10)(a) A driver must be disqualified for not less than 60 days if the driver is convicted of or otherwise found to have committed a first violation of a railroad-highway grade crossing violation.

(b) A driver must be disqualified for not less than 120 days if, during any 3-year period, the driver is convicted of or otherwise found to have committed a second railroad-highway grade crossing violation in separate incidents.

(c) A driver must be disqualified for not less than 1 year if, during any 3-year period, the driver is convicted of or otherwise found to have committed a third or subsequent railroad-highway grade crossing violation in separate incidents.

Section 64. Subsections (1) and (3) of section 322.64, Florida Statutes, are amended to read:

322.64 Holder of commercial driver's license; driving with unlawful blood-alcohol level; refusal to submit to breath, urine, or blood test.—

(1)(a) A law enforcement officer or correctional officer shall, on behalf of the department, disqualify from operating any commercial motor vehicle a person who while operating or in actual physical control of a commercial motor vehicle is arrested for a violation of s. 316.193, relating to unlawful blood-alcohol level or breath-alcohol level, or a person who has refused to submit to a breath, urine, or blood test authorized by s. 322.63 arising out of the operation or actual physical control of a commercial motor vehicle. Upon disqualification of the person, the officer shall take the person's driver's license and issue the person a *10-day* ~~30-day~~ temporary permit if the person is otherwise eligible for the driving privilege and shall issue the person a notice of disqualification. If the person has been given a blood, breath, or urine test, the results of which are not available to the officer at the time of the arrest, the agency employing the officer shall transmit such results to the department within 5 days after receipt of the results. If the department then determines that the person was arrested for a violation of s. 316.193 and that the person had a blood-alcohol level or breath-alcohol level of 0.08 or higher, the department shall disqualify the person from operating a commercial motor vehicle pursuant to subsection (3).

(b) The disqualification under paragraph (a) shall be pursuant to, and the notice of disqualification shall inform the driver of, the following:

1.a. The driver refused to submit to a lawful breath, blood, or urine test and he or she is disqualified from operating a commercial motor vehicle for a period of 1 year, for a first refusal, or permanently, if he or she has previously been disqualified as a result of a refusal to submit to such a test; or

b. The driver violated s. 316.193 by driving with an unlawful blood-alcohol level and he or she is disqualified from operating a commercial motor vehicle for a period of 6 months for a first offense or for a period of 1 year if he or she has previously been disqualified, or his or her driving privilege has been previously suspended, for a violation of s. 316.193.

2. The disqualification period shall commence on the date of arrest or issuance of notice of disqualification, whichever is later.

3. The driver may request a formal or informal review of the disqualification by the department within 10 days after the date of arrest or issuance of notice of disqualification, whichever is later.

4. The temporary permit issued at the time of arrest or disqualification will expire at midnight of the *10th* ~~30th~~ day following the date of disqualification.

5. The driver may submit to the department any materials relevant to the arrest.

(3) If the department determines that the person arrested should be disqualified from operating a commercial motor vehicle pursuant to this section and if the notice of disqualification has not already been served upon the person by a law enforcement officer or correctional officer as provided in subsection (1), the department shall issue a notice of disqualification and, unless the notice is mailed pursuant to s. 322.251, a temporary permit which expires *10* ~~30~~ days after the date of issuance if the driver is otherwise eligible.

Section 65. *Driver Licensing Study Commission created.—*

(1) The Driver Licensing Study Commission is created within the Department of Highway Safety and Motor Vehicles. The commission shall consist of eight members, to be appointed as follows:

(a) The Speaker of the House of Representatives shall appoint two members, at least one of whom must have business managerial experience in the private sector.

(b) The President of the Senate shall appoint two members, at least one of whom must have business managerial experience in the private sector.

(c) The Governor shall appoint three members, at least one of whom must have information technology experience relating to systems utilizing complex databases.

(d) The Executive Director of the Department of Highway Safety and Motor Vehicles shall serve as an ex officio, nonvoting member of the commission.

(2) The commission shall elect a chair and a vice chair from its membership at its first meeting.

(3) The commission shall be appointed no later than June 15, 2001, and its first meeting shall be held no later than July 15, 2001. The commission shall meet periodically at the request of the chair.

(3) Members of the commission shall serve without compensation, except for per diem and reimbursement for travel expenses as provided by s. 112.061, Florida Statutes.

(4) A vacancy in the commission shall be filled within 30 days after its occurrence in the same manner as the original appointment.

(5) The Department of Highway Safety and Motor Vehicles shall serve as primary staff to the commission, providing technical and administrative assistance and ensuring that commission meetings are electronically recorded. Such recordings shall be preserved pursuant to chs. 119 and 257, Florida Statutes.

(6) The commission shall study and make recommendations on the feasibility of using privatization, outsourcing, and public-private partnership techniques in the delivery of driver's license services. The commission shall review local government driver's licensing programs and shall review results available from driver's licensing privatization pilot projects in the state. The study shall address the following issues:

(a) Identification of functions that are appropriate for privatization or outsourcing and functions for which the public sector should maintain direct control.

(b) Technology and re-engineering of business processes to achieve greater efficiencies, ultimately resulting in cost reduction.

(c) The format and type of necessary procurement procedures and oversight and audit mechanisms to protect the interests of the State of Florida in dealings with private service providers.

(d) Contractual controls to ensure appropriate service delivery and customer satisfaction levels.

(e) Safeguards for control of personal information.

(f) Ways to encourage the use of alternative service delivery options.

(g) Service center size and location to ensure that the public is best served.

(h) Issues related to utilization and placement of current public driver's license employees in public-private licensing enterprises.

(i) Any other issues the commission deems relevant to the privatization of drivers licensing functions.

(7) The commission shall prepare an initial report of its findings and recommendations on the issues listed in subsection (6) and shall submit the report to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before January 1, 2002. The commission shall prepare a final report of its findings and recommendations, taking into consideration the results of any pilot projects for delivery of driver's license services, and shall submit the report to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before January 1, 2003. The commission is dissolved at the time it submits its final report.

Section 66. *There is appropriated from the Highway Safety Operating Trust Fund to the Driver Licensing Study Commission the sum of $100,000 for the purpose of conducting the study required in this act.*

Section 67. Section 324.091, Florida Statutes, is amended to read:

324.091 Notice to department; notice to insurer.—

(1) Each owner and operator involved in a crash or conviction case within the purview of this chapter shall furnish evidence of automobile liability insurance, motor vehicle liability insurance, or surety bond within 30 days from the date of the mailing of notice of crash by the department in such form and manner as it may designate. Upon receipt of evidence that an automobile liability policy, motor vehicle liability policy, or surety bond was in effect at the time of the crash or conviction case, the department shall forward by United States mail, postage prepaid, to the insurer or surety insurer a copy of such information and shall assume that such policy or bond was in effect unless the insurer or surety insurer shall notify the department otherwise within 20 days from the mailing of the notice to the insurer or surety insurer; provided that if the department shall later ascertain that an automobile liability policy, motor vehicle liability policy, or surety bond was not in effect and did not provide coverage for both the owner and the operator, it shall at such time take such action as it is otherwise authorized to do under this chapter. Proof of mailing to the insurer or surety insurer may be made by the department by naming the insurer or surety insurer to whom such mailing was made and specifying the time, place and manner of mailing.

(2) Each insurer doing business in this state shall immediately give notice to the department of each motor vehicle liability policy when issued to effect the return of a license which has been suspended under s. 324.051(2); and said notice shall be upon such form and in such manner as the department may designate.

(3) Electronic access to the vehicle insurer information maintained in the department's vehicle database may be provided by an approved third-party provider to insurers, lawyers, and financial institutions in compliance with s. 627.736(9)(a) and for subrogation and claims purposes only. The compilation and retention of this information is strictly prohibited.

Section 68. Paragraph (b) of subsection (3) of section 328.01, Florida Statutes, is amended to read:

328.01 Application for certificate of title.—

(3)

(b) If the application for transfer of title is based upon a contractual default, the recorded lienholder shall establish proof of right to ownership by submitting with the application the original certificate of title ~~and a copy of the applicable contract upon which the claim of ownership is made~~. If the claim is based upon a court order or judgment, a copy of such document shall accompany the application for transfer of title. If, on the basis of departmental records, there appears to be any other lien on the vessel, the certificate of title must contain a statement of such a lien, unless the application for a certificate of title is either accompanied by proper evidence of the satisfaction or extinction of the lien or contains a statement certifying that any lienholder named on the last-issued certificate of title has been sent notice by certified mail, at least 5 days before the application was filed, of the applicant's intention to seek a repossessed title. If such notice is given and no written protest to the department is presented by a subsequent lienholder within 15 days after the date on which the notice was mailed, the certificate of title shall be issued showing no liens. If the former owner or any subsequent lienholder files a written protest under oath within the 15-day period, the department shall not issue the repossessed certificate for 10 days thereafter. If, within the 10-day period, no injunction or other order of a court of competent jurisdiction has been served on the department commanding it not to deliver the certificate, the department shall deliver the repossessed certificate to the applicant, or as is otherwise directed in the application, showing no other liens than those shown in the application.

The department shall adopt suitable language that must appear upon the certificate of title to effectuate the manner in which the interest in or title to the vessel is held.

Section 69. Subsection (2) of section 328.42, Florida Statutes, is amended to read:

328.42 Suspension or denial of a vessel registration due to child support delinquency; dishonored checks.—

(2) The department may deny or cancel any vessel registration*, license plate, or fuel-use tax decal if the owner pays for the registration, license plate, fuel-use tax decal, or any tax liability, penalty, or interest specified in chapter 207 by a dishonored check* ~~if the owner pays for the registration by a dishonored check~~.

Section 70. Section 328.56, Florida Statutes, is amended to read:

328.56 Vessel registration number.—Each vessel that is used on the waters of the state must display a ~~commercial or recreational~~ Florida registration number, unless it is:

(1) A vessel used exclusively on private lakes and ponds.

(2) A vessel owned by the United States Government.

(3) A vessel used exclusively as a ship's lifeboat.

(4) A non-motor-powered vessel.

(5) A federally documented vessel.

(6) A vessel already covered by a registration number in full force and effect which has been awarded to it pursuant to a federally approved numbering system of another state or by the United States Coast Guard in a state without a federally approved numbering system, if the vessel has not been within this state for a period in excess of 90 consecutive days.

(7) A vessel operating under a valid temporary certificate of number.

(8) A vessel from a country other than the United States temporarily using the waters of this state.

(9) An undocumented vessel used exclusively for racing.

Section 71. Subsection (4) of section 328.72, Florida Statutes, is amended to read:

328.72 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.—

(4) TRANSFER OF OWNERSHIP.—

~~(a)~~ When the ownership of a registered vessel changes, an application for transfer of registration shall be filed with the county tax collector by the new owner within 30 days with a fee of $3.25. The county tax collector shall retain $2.25 of the fee and shall remit $1 to the department. A refund may not be made for any unused portion of a registration period.

~~(b) If a vessel is an antique as defined in subsection (2), the application shall be accompanied by either a certificate of title, a bill of sale and a registration, or a bill of sale and an affidavit by the owner defending the title from all claims. The bill of sale must contain a complete vessel description to include the hull identification number and engine number, if appropriate; the year, make, and color of the vessel; the selling price; and the signatures of the seller and purchaser.~~

Section 72. Effective July 1, 2001, subsection (1) of section 328.76, Florida Statutes, is amended to read:

328.76 Marine Resources Conservation Trust Fund; vessel registration funds; appropriation and distribution.—

(1) Except as otherwise specified and less *$1.4 million for* any administrative costs *which shall be deposited in the Highway Safety Operating Trust Fund, in each fiscal year beginning on or after July 1, 2001*, all funds collected from the registration of vessels through the Department of Highway Safety and Motor Vehicles and the tax collectors of the state, except for those funds designated for the use of the counties pursuant to s. 328.72(1), shall be deposited in the Marine Resources Conservation Trust Fund for recreational channel marking;

public launching facilities; law enforcement and quality control programs; aquatic weed control; manatee protection, recovery, rescue, rehabilitation, and release; and marine mammal protection and recovery. The funds collected pursuant to s. 328.72(1) shall be transferred as follows:

(a) In each fiscal year, an amount equal to $1.50 for each vessel registered in this state shall be transferred to the Save the Manatee Trust Fund and shall be used only for the purposes specified in s. 370.12(4).

(b) Two dollars from each noncommercial vessel registration fee, except that for class A-1 vessels, shall be transferred to the Invasive Plant Control Trust Fund for aquatic weed research and control.

(c) Forty percent of the registration fees from commercial vessels shall be transferred to the Invasive Plant Control Trust Fund for aquatic plant research and control.

(d) Forty percent of the registration fees from commercial vessels shall be transferred by the Department of Highway Safety and Motor Vehicles, on a monthly basis, to the General Inspection Trust Fund of the Department of Agriculture and Consumer Services. These funds shall be used for shellfish and aquaculture law enforcement and quality control programs.

Section 73. Subsections (4) and (6) of section 713.78, Florida Statutes, are amended to read:

713.78 Liens for recovering, towing, or storing vehicles and ~~documented~~ vessels.—

(4)(a) Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2), and who claims a lien for recovery, towing, or storage services, shall give notice to the registered owner*, the insurance company insuring the vehicle notwithstanding the provisions of s. 627.736,* and to all persons claiming a lien thereon, as disclosed by the records in the Department of Highway Safety and Motor Vehicles or of a corresponding agency in any other state.

(b) Whenever any law enforcement agency authorizes the removal of a vehicle or whenever any towing service, garage, repair shop, or automotive service, storage, or parking place notifies the law enforcement agency of possession of a vehicle pursuant to s. 715.07(2)(a)2., the applicable law enforcement agency shall contact the Department of Highway Safety and Motor Vehicles, or the appropriate agency of the state of registration, if known, within 24 hours through the medium of electronic communications, giving the full description of the vehicle. Upon receipt of the full description of the vehicle, the department shall search its files to determine the owner's name, the insurance company insuring the vehicle, and whether any person has filed a lien upon the vehicle as provided in s. 319.27(2) and (3) and notify the applicable law enforcement agency within 72 hours. The person in charge of the towing service, garage, repair shop, or automotive service, storage, or parking place shall obtain such information from the applicable law enforcement agency within 5 days from the date of storage and shall give notice pursuant to paragraph (a). The department may release the insurance company information to the requestor notwithstanding the provisions of s. 627.736.

(c)~~(b)~~ Notice by certified mail, return receipt requested, shall be sent within 7 business days after the date of storage of the vehicle or vessel to the registered owner*, the insurance company insuring the vehicle notwithstanding the provisions of s. 627.736,* and ~~to~~ all persons of record claiming a lien against the vehicle or vessel. It shall state the fact of possession of the vehicle or vessel, that a lien as provided in subsection (2) is claimed, that charges have accrued and the amount thereof, that the lien is subject to enforcement pursuant to law, and that the owner or lienholder, if any, has the right to a hearing as set forth in subsection (5), and that any vehicle or vessel which remains unclaimed, or for which the charges for recovery, towing, or storage services remain unpaid, may be sold ~~after 35 days~~ free of all prior liens *after 35 days if the vehicle or vessel is more than 3 years of age and after 50 days if the vehicle or vessel is 3 years of age or less*.

(d)~~(c)~~ If attempts to locate the owner or lienholder prove unsuccessful, the towing-storage operator shall, after 7 working days, excluding Saturday and Sunday, of the initial tow or storage, notify the public agency of jurisdiction in writing by certified mail or acknowledged hand delivery that the towing-storage company has been unable to locate the owner or lienholder and a physical search of the vehicle or vessel has disclosed no ownership information and a good faith effort has been made. For purposes of this paragraph *and*~~,~~ subsection (9), ~~and s. 715.05,~~ "good faith effort" means that the following checks have been performed by the company to establish prior state of registration and for title:

1. Check of vehicle or vessel for any type of tag, tag record, temporary tag, or regular tag.

2. Check of law enforcement report for tag number or other information identifying the vehicle or vessel, if the vehicle or vessel was towed at the request of a law enforcement officer.

3. Check of trip sheet or tow ticket of tow truck operator to see if a tag was on vehicle at beginning of tow, if private tow.

4. If there is no address of the owner on the impound report, check of law enforcement report to see if an out-of-state address is indicated from driver license information.

5. Check of vehicle or vessel for inspection sticker or other stickers and decals that may indicate a state of possible registration.

6. Check of the interior of the vehicle or vessel for any papers that may be in the glove box, trunk, or other areas for a state of registration.

7. Check of vehicle for vehicle identification number.

8. Check of vessel for vessel registration number.

9. Check of vessel hull for a hull identification number which should be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outmost seaboard side at the end of the hull that bears the rudder or other steering mechanism.

(6) Any vehicle or vessel which is stored pursuant to subsection (2) and which remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid or for which a lot rental amount is due and owing to the mobile home park owner, as evidenced by a judgment for unpaid rent, and any contents not released pursuant to subsection (10), may be sold by the owner or operator of the storage space for such towing or storage charge or unpaid lot rental amount after 35 days from the time the vehicle or vessel is stored therein *if the vehicle or vessel is more than 3 years of age and after 50 days from the time the vehicle or vessel is stored therein if the vehicle or vessel is 3 years of age or less*. The sale shall be at public auction for cash. If the date of the sale was not included in the notice required in subsection (4), notice of the sale shall be given to the person in whose name the vehicle, vessel, or mobile home is registered, to the mobile home park owner, and to all persons claiming a lien on the vehicle or vessel as shown on the records of the Department of Highway Safety and Motor Vehicles or of the corresponding agency in any other state. Notice shall be sent by certified mail, return receipt requested, to the owner of the vehicle or vessel and the person having the recorded lien on the vehicle or vessel at the address shown on the records of the registering agency and shall be mailed not less than 15 days before the date of the sale. After diligent search and inquiry, if the name and address of the registered owner or the owner of the recorded lien cannot be ascertained, the requirements of notice by mail may be dispensed with. In addition to the notice by mail, public notice of the time and place of sale shall be made by publishing a notice thereof one time, at least 10 days prior to the date of the sale, in a newspaper of general circulation in the county in which the sale is to be held. The proceeds of the sale, after payment of reasonable towing and storage charges, costs of the sale, and the unpaid lot rental amount, in that order of priority, shall be deposited with the clerk of the circuit court for the county if the owner is absent, and the clerk shall hold such proceeds subject to the claim of the person legally entitled thereto. The clerk shall be entitled to receive 5 percent of such

proceeds for the care and disbursement thereof. The certificate of title issued under this law shall be discharged of all liens unless otherwise provided by court order.

Section 74. *Section 715.05, Florida Statutes, is repealed.*

Section 75. Subsection (1) of section 681.1096, Florida Statutes, is amended to read:

681.1096 Pilot RV Mediation and Arbitration Program; creation and qualifications.—

(1) This section and s. 681.1097 shall apply to disputes determined eligible under this chapter involving recreational vehicles acquired on or after October 1, 1997, and shall remain in effect until September 30, *2002* ~~2001~~, at which time recreational vehicle disputes shall be subject to the provisions of ss. 681.109 and 681.1095. The Attorney General shall report ~~annually~~ to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, and appropriate legislative committees regarding the *effectiveness* ~~efficiency and cost-effectiveness~~ of the pilot program.

Section 76. Subsections (5) and (7) of section 681.1097, Florida Statutes, are amended to read:

681.1097 Pilot RV Mediation and Arbitration Program; dispute eligibility and program function.—

(5) If the mediation ends in an impasse, or if a manufacturer fails to comply with the settlement entered into between the parties, the program administrator shall schedule the dispute for an arbitration hearing. Arbitration proceedings shall be open to the public on reasonable and nondiscriminatory terms.

(a) The arbitration hearing shall be conducted by a single arbitrator assigned by the program administrator. The arbitrator shall not be the same person as the mediator who conducted the prior mediation conference in the dispute. The parties may factually object to an arbitrator based on the arbitrator's past or present relationship with a party or a party's attorney, direct or indirect, whether financial, professional, social, or of any other kind. The program administrator shall consider any such objection, determine its validity, and notify the parties of any determination. If the objection is determined valid, the program administrator shall assign another arbitrator to the case.

(b) The arbitrator may issue subpoenas for the attendance of witnesses and for the production of records, documents, and other evidence. Subpoenas so issued shall be served and, upon application to the court by a party to the arbitration, enforced in the manner provided by law for the service and enforcement of subpoenas in civil actions. Fees for attendance as a witness shall be the same as for a witness in the circuit court.

(c) At all program arbitration proceedings, the parties may present oral and written testimony, present witnesses and evidence relevant to the dispute, cross-examine witnesses, and be represented by counsel. The arbitrator shall record the arbitration hearing and shall have the power to administer oaths. The arbitrator may inspect the vehicle if requested by a party or if the arbitrator considers such inspection appropriate.

(d) The program arbitrator may continue a hearing on his or her own motion or upon the request of a party for good cause shown. A request for continuance by the consumer constitutes a waiver of the time period set forth in s. 681.1096(3)(k) for completion of all proceedings under the program.

(e) Where the arbitration is the result of a manufacturer's failure to perform in accordance with a *settlement* ~~mediation~~ agreement, any relief to the consumer granted by the arbitration will be no less than the relief agreed to by the manufacturer in the settlement agreement.

(f) The arbitrator shall grant relief if a reasonable number of attempts have been undertaken to correct a nonconformity or nonconformities.

(g) The program arbitrator shall render a decision within 10 days of the closing of the hearing. The decision shall be in writing on a form prescribed or approved by the department. The program administrator shall send a copy of the decision to the consumer and each involved manufacturer by registered mail. The program administrator shall also send a copy of the decision to the department within 5 days of mailing to the parties.

(h) A manufacturer shall comply with an arbitration decision within 40 days of the date the manufacturer receives the written decision. Compliance occurs on the date the consumer receives delivery of an acceptable replacement motor vehicle or the refund specified in the arbitration award. If a manufacturer fails to comply within the time required, the consumer must notify the program administrator in writing within 10 days. The program administrator shall notify the department of a manufacturer's failure to comply. The department shall have the authority to enforce compliance with arbitration decisions under this section in the same manner as is provided for enforcement of compliance with board decisions under s. 681.1095(10). In any civil action arising under this chapter and relating to a dispute arbitrated pursuant to this section, the decision of the arbitrator is admissible in evidence.

(i) Either party may request that the program arbitrator make a technical correction to the decision by filing a written request with the program administrator within 10 days after receipt of the written decision. Technical corrections shall be limited to computational errors, correction of a party's name or information regarding the recreational vehicle, and typographical or spelling errors. Technical correction of a decision shall not toll the time for filing an appeal or for manufacturer compliance.

(7) *A decision of the arbitrator is binding unless appealed by either party by filing a petition with the circuit court within the time and in the manner prescribed by s. 681.1095(10) and (12). Section 681.1095(13) and (14) apply to appeals filed under this section.* ~~Either party may make application to the circuit court for the county in which one of the parties resides or has a place of business or, if neither party resides or has a place of business in this state, the county where the arbitration hearing was held, for an order confirming, vacating, modifying, or correcting any award, in accordance with the provisions of this section and ss. 682.12, 682.13, 682.14, 682.15, and 682.17. Such application must be filed within 30 days of the moving party's receipt of the written decision or the decision becomes final. Upon filing such application, the moving party shall mail a copy to the department and, upon entry of any judgment or decree, shall mail a copy of such judgment or decree to the department. A review of such application by the circuit court shall be confined to the record of the proceedings before the program arbitrator. The court shall conduct a de novo review of the questions of law raised in the application. In addition to the grounds set forth in ss. 682.13 and 682.14, the court shall consider questions of fact raised in the application. In reviewing questions of fact, the court shall uphold the award unless it determines that the factual findings of the arbitrator are not supported by substantial evidence in the record and that the substantial rights of the moving party have been prejudiced. If the arbitrator fails to state findings or reasons for the stated award, or the findings or reasons are inadequate, the court shall search the record to determine whether a basis exists to uphold the award. The court shall expedite consideration of any application filed under this section on the calendar.~~

~~(a)~~ If a decision of a program arbitrator in favor of a consumer is confirmed by the court, recovery by the consumer shall include the pecuniary value of the award, attorney's fees incurred in obtaining confirmation of the award, and all costs and continuing damages in the amount of $25 per day for each day beyond the 40-day period following a manufacturer's receipt of the arbitrator's decision. If a court determines the manufacturer acted in bad faith in bringing the appeal or brought the appeal solely for the purpose of harassment, or in complete absence of a justiciable issue of law or fact, the court shall double, and may triple, the amount of the total award.

~~(b) An appeal of a judgment or order by the court confirming, denying confirmation, modifying or correcting, or vacating the award~~

~~may be taken in the manner and to the same extent as from orders or judgments in a civil action.~~

Section 77. Section 681.115, Florida Statutes, is amended to read:

681.115 Certain agreements void.—Any agreement entered into by a consumer that waives, limits, or disclaims the rights set forth in this chapter*, or that requires a consumer not to disclose the terms of such agreement as a condition thereof,* is void as contrary to public policy. The rights set forth in this chapter shall extend to a subsequent transferee of such motor vehicle.

Section 78. Section 715.07, Florida Statutes, is amended to read:

715.07 Vehicles *and vessels* parked on private property; towing.—

(1) As used in this section, the *terms:*

(a) ~~term~~ "Vehicle" means any mobile item which normally uses wheels, whether motorized or not.

(b) "Vessel" means every description of watercraft, barge, and air boat used or capable of being used as a means of transportation on water, other than a seaplane or a documented vessel, as defined in s. 327.02(8).

(2) The owner or lessee of real property, or any person authorized by the owner or lessee, which person may be the designated representative of the condominium association if the real property is a condominium, may cause any vehicle *or vessel* parked on such property without her or his permission to be removed by a person regularly engaged in the business of towing vehicles *or vessels*, without liability for the costs of removal, transportation, or storage or damages caused by such removal, transportation, or storage, under any of the following circumstances:

(a) The towing or removal of any vehicle *or vessel* from private property without the consent of the registered owner or other legally authorized person in control of that vehicle *or vessel* is subject to strict compliance with the following conditions and restrictions:

1.a. Any towed or removed vehicle *or vessel* must be stored at a site within 10 miles of the point of removal in any county of 500,000 population or more, and within 15 miles of the point of removal in any county of less than 500,000 population. That site must be open for the purpose of redemption of vehicles *or vessels* on any day that the person or firm towing such vehicle *or vessel* is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and, when closed, shall have prominently posted a sign indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle *or vessel*, the operator shall return to the site within 1 hour or she or he will be in violation of this section.

b. If no towing business providing such service is located within the area of towing limitations set forth in sub-subparagraph a., the following limitations apply: any towed or removed vehicle *or vessel* must be stored at a site within 20 miles of the point of removal in any county of 500,000 population or more, and within 30 miles of the point of removal in any county of less than 500,000 population.

2. The person or firm towing or removing the vehicle *or vessel* shall, within 30 minutes of completion of such towing or removal, notify the municipal police department or, in an unincorporated area, the sheriff of such towing or removal, the storage site, the time the vehicle *or vessel* was towed or removed, and the make, model, color, and license plate number of the vehicle *or the make, model, color, and registration number of the vessel* and shall obtain the name of the person at that department to whom such information was reported and note that name on the trip record.

3. If the registered owner or other legally authorized person in control of the vehicle *or vessel* arrives at the scene prior to removal or towing of the vehicle *or vessel*, the vehicle *or vessel* shall be disconnected from the towing or removal apparatus, and that person shall be allowed to remove the vehicle *or vessel* without interference upon the payment of a reasonable service fee of not more than one-half of the posted rate for such towing service as provided in subparagraph 6., for which a receipt shall be given, unless that person refuses to remove the vehicle *or vessel* which is otherwise unlawfully parked *or located*.

4. The rebate or payment of money or any other valuable consideration from the individual or firm towing or removing vehicles *or vessels* to the owners or operators of the premises from which the vehicles are towed or removed, for the privilege of removing or towing those vehicles *or vessels*, is prohibited.

5. Except for property appurtenant to and obviously a part of a single-family residence, and except for instances when notice is personally given to the owner or other legally authorized person in control of the vehicle *or vessel* that the area in which that vehicle *or vessel* is parked is reserved or otherwise unavailable for unauthorized vehicles *or vessels* and subject to being removed at the owner's or operator's expense, any property owner or lessee, or person authorized by the property owner or lessee, prior to towing or removing any vehicle *or vessel* from private property without the consent of the owner or other legally authorized person in control of that vehicle *or vessel*, must post a notice meeting the following requirements:

a. The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within 5 feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign for each 25 feet of lot frontage.

b. The notice must clearly indicate, in not less than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. *Owners or lessees that remove vessels from their properties shall post notice, consistent with the requirements of this subparagraph, that unauthorized vehicles or vessels will be towed at the owner's expense.* The words "tow-away zone" must be included on the sign in not less than 4-inch high letters.

c. The notice must also provide the name and current telephone number of the person or firm towing or removing the vehicles *or vessels*, if the property owner, lessee, or person in control of the property has a written contract with the towing company.

d. The sign structure containing the required notices must be permanently installed with the words "tow-away zone" not less than 3 feet and not more than 6 feet above ground level and must be continuously maintained on the property for not less than 24 hours prior to the towing or removal of any vehicles *or vessels*.

e. The local government may require permitting and inspection of these signs prior to any towing or removal of vehicles *or vessels* being authorized.

f. A business with 20 or fewer parking spaces satisfies the notice requirements of this subparagraph by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles *or Vessels* Will be Towed Away At the Owner's Expense" in not less than 4-inch high, light-reflective letters on a contrasting background.

A business owner or lessee may authorize the removal of a vehicle *or vessel* by a towing company when the vehicle is parked in such a manner that restricts the normal operation of business; and if a vehicle *or vessel* parked on a public right-of-way obstructs access to a private driveway the owner, lessee, or agent may have the vehicle *or vessel* removed by a towing company upon signing an order that the vehicle *or vessel* be removed without a posted tow-away zone sign.

6. Any person or firm that tows or removes vehicles *or vessels* and proposes to require an owner, operator, or person in control of a vehicle *or vessel* to pay the costs of towing and storage prior to redemption of the vehicle *or vessel* must file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services and post at the storage site an identical rate schedule and any written contracts with property owners, lessees, or persons in control of property which authorize such person or firm to remove vehicles *or vessels* as provided in this section.

7. Any person or firm towing or removing any vehicles *or vessels* from private property without the consent of the owner or other legally authorized person in control of the vehicles *or vessels* shall, on any trucks, wreckers as defined in s. 713.78(1)(b), or other vehicles used in

the towing or removal, have the name, address, and telephone number of the company performing such service clearly printed in contrasting colors on the driver and passenger sides of the vehicle. The name shall be in at least 3-inch permanently affixed letters, and the address and telephone number shall be in at least 1-inch permanently affixed letters.

8. Vehicle entry for the purpose of removing the vehicle *or vessel* shall be allowed with reasonable care on the part of the person or firm towing the vehicle *or vessel*. Such person or firm shall be liable for any damage occasioned to the vehicle *or vessel* if such entry is not in accordance with the standard of reasonable care.

9. When a vehicle *or vessel* has been towed or removed pursuant to this section, it must be released to its owner or custodian within one hour after requested. Any vehicle *or vessel* owner, custodian, or agent shall have the right to inspect the vehicle *or vessel* before accepting its return, and no release or waiver of any kind which would release the person or firm towing the vehicle *or vessel* from liability for damages noted by the owner or other legally authorized person at the time of the redemption may be required from any vehicle *or vessel* owner, custodian, or agent as a condition of release of the vehicle *or vessel* to its owner. A detailed, signed receipt showing the legal name of the company or person towing or removing the vehicle *or vessel* must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

(b) These requirements shall be the minimum standards and shall not preclude enactment of additional regulations by any municipality or county including the right to regulate rates when vehicles *or vessels* are towed from private property.

(3) This section does not apply to law enforcement, firefighting, rescue squad, ambulance, or other emergency vehicles *or vessels* which are marked as such or to property owned by any governmental entity.

(4) When a person improperly causes a vehicle *or vessel* to be removed, such person shall be liable to the owner or lessee of the vehicle *or vessel* for the cost of removal, transportation, and storage; any damages resulting from the removal, transportation, or storage of the vehicle; attorneys' fees; and court costs.

(5) Failure to make good faith best efforts to comply with the notice requirement of this section, as appropriate, shall preclude the imposition of any towing or storage charges against such vehicle or vessel.

(6)~~(5)~~(a) Any person who violates the provisions of subparagraph (2)(a)2. or subparagraph (2)(a)6. *commits* ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person who violates the provisions of subparagraph (2)(a)7. *commits* ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 79. Subsection (3) is added to section 832.09, Florida Statutes, to read:

832.09 Suspension of driver license after warrant or capias is issued in worthless check case.—

(3) The Department of Highway Safety and Motor Vehicles shall create a standardized form to be distributed to the clerks of the court in each county for the purpose of notifying the department that a person has satisfied the requirements of the court. Notices of compliance with the court's requirements shall be on the standardized form provided by the department.

Section 80. Subsection (1) of section 322.056, Florida Statutes, is amended to read:

322.056 Mandatory revocation or suspension of, or delay of eligibility for, driver's license for persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; prohibition.—

(1) Notwithstanding the provisions of s. 322.055, if a person under 18 years of age is found guilty of or delinquent for a violation of s. 562.11(2), s. 562.111, or chapter 893, and:

(a) The person is eligible by reason of age for a driver's license or driving privilege, the court shall direct the department to revoke or to withhold issuance of his or her driver's license or driving privilege for a period of:

1. Not less than 6 months and not more than 1 year for the first violation.

2. Two years, for a subsequent violation.

(b) The person's driver's license or driving privilege is under suspension or revocation for any reason, the court shall direct the department to extend the period of suspension or revocation by an additional period of:

1. Not less than 6 months and not more than 1 year for the first violation.

2. Two years, for a subsequent violation.

(c) The person is ineligible by reason of age for a driver's license or driving privilege, the court shall direct the department to withhold issuance of his or her driver's license or driving privilege for a period of:

1. Not less than 6 months and not more than 1 year after the date on which he or she would otherwise have become eligible, for the first violation.

2. Two years after the date on which he or she would otherwise have become eligible, for a subsequent violation.

However, the court may, in its sound discretion, direct the department to issue a license for driving privileges restricted to business or employment purposes only, as defined in s. 322.271, if the person is otherwise qualified for such a license.

Section 81. Except as otherwise provided herein, this act shall take effect October 1, 2001.

And the title is amended as follows:

On page 1, line 5 through page 12, line 14,
remove from the title of the bill: remove all of said lines

and insert in lieu thereof: Florida educational license plate; amending s. 322.056, F.S.; authorizing the court to direct the Department of Highway Safety and Motor Vehicles to issue a driver's license restricted to business or employment purposes only to certain persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; amending s. 316.003, F.S.; providing that certain vehicles of the Department of Health are authorized emergency vehicles; providing that a motorized scooter is not a motor vehicle for traffic control purposes; creating a definition of the term motorized scooter; amending s. 316.006, F.S.; authorizing the installation of multiparty stop signs on certain roads; providing guidelines for the installation of such signage; amending s. 316.0741, F.S.; allowing certain energy-saving vehicles to travel in high-occupancy vehicle lanes, regardless of occupancy; amending s. 316.1951, F.S.; amending 316.1967, F.S.; allowing a fine designated by county ordinance; revising provisions related to parking vehicles to display for sale; amending s. 316.1975, F.S.; exempting operators of solid waste and recovered materials vehicles from provisions regarding unattended motor vehicles; amending s. 316.2065, F.S.; providing motorized scooter operating regulations; amending s. 316.228, F.S.; requiring strobe lights to be placed on the exterior of a commercial vehicle transporting unprocessed forest products extending more than 4 feet beyond the rear of the vehicle; providing an alternate method for placing strobe lights in certain instances; requiring the use of a red flag on the load; amending s. 316.2397, F.S.; authorizing the emergency response vehicles of the Department of Health to use red flashing lights; amending s. 316.520, F.S.; clarifying that a violation of a provision governing loads on vehicles is a moving rather than a nonmoving violation; exempting certain vehicles carrying agricultural products; amending s. 316.640, F.S.; revising the powers and duties of traffic crash investigation officers; authorizing university police officers to enforce state traffic laws violated on or adjacent to property under control of the university or its agents; amending s. 316.650, F.S.; requiring the issuance of a copy of the

traffic school reference guide with traffic citations under certain circumstances; amending s. 318.14, F.S.; deleting reference to a restriction on the number of elections a person may make to attend a basic driver improvement course; amending s. 318.1451, F.S.; providing traffic school reference guide requirements; amending s. 318.18, F.S.; allowing fine amount designated by county ordinance plus court costs; amending the date by which court clerks must electronically transmit to the department specified information; amending s. 322.0261, F.S.; deleting reference to a time period and increasing the amount of damage required with respect to a crash for the screening of certain crash reports; requiring the Department of Highway Safety and Motor Vehicles to approve and regulate certain courses for driver improvement schools; amending s. 322.161, F.S.; increasing the number of points that a driver under a specified age may accumulate before the department is required to issue that driver a restricted license; creating s. 322.02615, F.S.; providing for mandatory driver improvement courses for certain violations; amending s. 319.001, F.S.; providing definitions; amending s. 319.14, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to place a decal on a rebuilt vehicle so as to clarify its identity; providing a penalty for the removal of the decal; amending s. 319.23, F.S.; conforming the requirements for the transfer of ownership on an antique vehicle to that of any other motor vehicle; amending s. 319.28, F.S.; deleting the requirement that a copy of a contract for processing an application for title based on a contractual default be provided; amending s. 319.30, F.S.; clarifying the major component parts of a motor vehicle; amending s. 320.01, F.S.; conforming the length limitation for a motor home to that established in ch. 316, F.S.; providing that a motorized scooter is not a motor vehicle for registration purposes; amending s. 320.02, F.S.; requiring application forms for motor vehicle registration and renewal of registration to include language permitting a voluntary contribution to certain organizations; amending s. 320.023, F.S.; requiring certain organizations receiving voluntary check-off contributions to notify the department under certain circumstances and to meet specified requirements; conforming the section to the Florida Single Audit Act; requiring organizations seeking authorization to establish a voluntary check-off contribution on a motor vehicle registration application to conform to the requirements of ch. 496, F.S.; conforming this section to the Florida Single Audit Act; amending s. 320.025, Florida Statutes, conforming the vessel registration law to the motor vehicle registration law; requiring a decal to be affixed to a vessel that is registered under a fictitious name and operated by any law enforcement agency; amending s. 320.05, F.S.; conforming the vessel registration law to the motor vehicle registration law; providing instructions for the release of information regarding a vessel to the public; amending s. 320.055, F.S.; correcting the registration period for nonapportioned vehicles; amending s. 320.06, F.S.; providing for the placement of only one decal rather than two on a license plate; amending s. 320.072, F.S.; reducing the timeframe a registrant can use a previous license plate for the initial registration fee exemption; amending s. 320.0805, F.S.; reducing the timeframe for a personalized license plate to remain out of circulation prior to reassignment; amending s. 320.08056, F.S.; requiring the department to count annual renewals when determining whether to discontinue a speciality license plate; requiring certain organizations to notify the department under certain circumstances; including two more colleges to the discontinuance exemptions provided for collegiate specialty license plates; amending s. 320.08052, F.S.; providing for a Florida Golf license plate; amending s. 320.08058, F.S.; requiring the department to develop the Florida Golf license plate; providing for distribution of proceeds of the annual use fees; requiring the Florida Sports Foundation to establish a youth golf program; providing for an advisory committee; amending s. 320.08062, F.S.; conforming this section to the Florida Single Audit Act; amending s. 320.083, F.S.; increasing the weight restriction for a private-use vehicle so as to be eligible to apply for the Amateur Radio Operator specialty license plate; amending s. 320.089, F.S.; providing for the issuance of Pearl Harbor Survivor and Purple Heart license plates without payment to a disabled veteran; increasing the weight restriction for a private-use vehicle so as to be eligible to apply for the EX-POW or Purple Heart specialty license plate; amending s. 320.18, F.S.; providing for cancellation of license plates and fuel use tax decals for failure to pay motor carrier weight and safety violation penalties; amending s. 320.27, F.S.; redefining the term "motor vehicle auction"; deleting the requirement for a licensee to have the certificate of title or ownership indicia in his or her possession at an auction; deleting a requirement for establishing a pattern of wrongdoing; revising requirements for denial, suspension, or revocation of a motor vehicle dealer license; amending s. 320.60, F.S.; revising definitions used in ss. 320.61-320.70, F.S.; amending s. 320.61, F.S.; amending procedures to be followed when a complaint of unfair cancellation of a dealer agreement has been made by a motor vehicle dealer against a licensee; defining the term "final decision"; amending s. 320.64, F.S.; providing penalties and remedies for violations; deleting subsections (13) and (16); amending subsection (18); creating subsections (22) through (32) and renumbering sections; amending s. 320.641, F.S.; providing procedures relating to discontinuations, cancellations, nonrenewals, modifications, and replacements of franchise agreements; amending s. 320.643, F.S.; amending provisions relating to the transfer, assignment, or sale of franchise agreements; amending s. 320.645, F.S.; amending provisions relating to restrictions upon a licensee's owning a dealership; providing for "dealer development arrangements"; providing exceptions; amending s. 320.699, F.S.; amending procedures for administrative hearings; creating s. 320.6991; providing for severability; amending s. 320.691 F.S.; creating the Automobile Dealers Industry Advisory Board; amending s. 322.01, F.S.; providing that a motorized scooter is not a motor vehicle for drivers' licensing purposes; amending s. 322.05, F.S.; correcting a statutory reference regarding the requirements for an individual under 18 years of age to apply for a driver's license; amending s. 322.081, F.S.; requiring certain organizations receiving voluntary check-off contributions to notify the department under certain circumstances and to meet specified requirements; conforming the section to the Florida Single Audit Act; requiring organizations seeking authorization to establish a voluntary contribution on a motor vehicle registration to register with the Department of Agriculture and Consumer Services; amending s. 322.095, F.S.; requiring the Department of Highway Safety and Motor Vehicles to approve and regulate certain courses for driver improvement schools; creating s. 322.222, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to hold a hearing when an individual's driver's license has been suspended or revoked due to medical reasons; amending s. 322.25, F.S.; correcting a cross reference; amending s. 322.2615, F.S.; complying with the USDOT's drunk driving prevention incentive program; reducing the timeframe for a temporary permit that is allotted when an individual is charged with driving with an unlawful blood-alcohol level; amending s. 322.27, F.S.; clarifying the time period for a driver's license revocation of a habitual traffic offender; amending s. 322.28, F.S.; deleting obsolete language regarding the revocation of a driver's license; repealing s. 322.282, F.S., relating to the procedure when the court revokes or suspends license or driving privilege and orders reinstatement; amending s. 322.292, F.S.; adding the requirement that DUI programs must be governmental programs or not-for-profit corporations; amending s. 322.61, F.S.; complying with the Federal Motor Carrier Safety Regulations; adding two more violations for which a commercial motor vehicle may be disqualified of driving privileges; amending s. 322.64, F.S.; reducing the timeframe for a temporary permit allotted when an individual holding a commercial driver's license is charged with an unlawful blood-alcohol level; repealing s. 322.331, F.S., relating to the reinstatement of a license of a habitual traffic offender; creating the Driver Licensing Study Commission within the Department of Highway Safety and Motor Vehicles; providing for membership and appointment; providing for staff; providing for duties of the commission; providing for dissolution of the commission upon submission of a required report; providing an appropriation; amending s. 324.091, F.S.; providing for electronic access to vehicle insurance information; amending s. 328.01, F.S.; deleting the requirement for a copy of a contract upon which a claim of ownership of a vessel is made on a contractual default; amending s. 328.42, F.S.; authorizing the department to deny or cancel any vessel registration, license plate, or fuel use decal when given a dishonored check by the customer; amending s. 328.56, F.S.; deleting the terms "commercial" and "recreational" when referring to vessels operated on the waters of this state; amending s. 328.72, F.S.; deleting the requirements for the transfer of ownership of an antique vessel; amending s. 328.76, F.S.; providing for the appropriation allotted for fiscal year 2000-2001 to be deposited into the Highway Safety Operating Trust Fund; amending s.

713.78, F.S.; adding the insurance company to the list of individuals to be contacted when a vehicle has been towed; providing storage periods before the expiration of which certain salvaged vehicles may not be sold; repealing s. 715.05, F.S., relating to the reporting of unclaimed motor vehicles; amending ss. 681.1096 and 681.1097, F.S.; revising program requirements for the Pilot RV Mediation and Arbitration program; amending s. 681.115, F.S.; providing that a motor vehicle sales agreement which prohibits disclosure of its terms is void; amending s. 715.07, F.S.; conforming the vessel registration law to the motor vehicle registration law; defining the term "vessel"; authorizing the removal of an undocumented vessel parked on private property; amending s. 832.09, F.S.; authorizing the department to create a standardized form to be used for notification of satisfaction of a worthless check; amending s. 212.08, F.S.; providing additional requirements on vehicle tax assessments;

Rep. Gardiner moved the adoption of the amendment.

Representative(s) Gardiner offered the following:

(Amendment Bar Code: 323745)

Amendment 1 to Amendment 14 (with title amendment)—On page 5, lines 23-29
remove from the amendment: all of said lines

And the title is amended as follows:

On page 130, line 30 through page 131, line 1 of the amendment
remove: all of said lines

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

Representative(s) Gardiner offered the following:

(Amendment Bar Code: 612051)

Amendment 2 to Amendment 14—On page 66, line 5-9,
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 42. Section 320.64, Florida Statutes, is amended to read:
and on page 66, between lines 24 & 25,

insert:

(1) The applicant or licensee is determined to be unable to carry out contractual obligations with its motor vehicle dealers.

(2) The applicant or licensee has knowingly made a material misstatement in its application for a license.

(3) The applicant or licensee willfully has failed to comply with significant provisions of ss. 320.60-320.70 or with any lawful rule or regulation adopted or promulgated by the department.

(4) The applicant or licensee has indulged in any illegal act relating to his or her business.

(5) The applicant or licensee has coerced or attempted to coerce any motor vehicle dealer into accepting delivery of any motor vehicle or vehicles or parts or accessories therefor or any other commodities which have not been ordered by the dealer.

(6) The applicant or licensee has coerced or attempted to coerce any motor vehicle dealer to enter into any agreement with the licensee.

(7) The applicant or licensee has threatened to discontinue, cancel, or not to renew a franchise agreement of a licensed motor vehicle dealer, where the threatened discontinuation, cancellation, or nonrenewal, if implemented, would be in violation of any of the provisions of s. 320.641.

(8) The applicant or licensee discontinued, canceled, or failed to renew, a franchise agreement of a licensed motor vehicle dealer in violation of any of the provisions of s. 320.641.

(9) The applicant or licensee has threatened to modify or replace, or has modified or replaced, a franchise agreement with a succeeding franchise agreement which would adversely alter the rights or obligations of a motor vehicle dealer under an existing franchise agreement or which substantially impairs the sales, service obligations, or investment of the motor vehicle dealer.

(10) The applicant or licensee has attempted to enter, or has entered, into a franchise agreement with a motor vehicle dealer who does not, at the time of the franchise agreement, have proper facilities to provide the services to his or her purchasers of new motor vehicles which are covered by the new motor vehicle warranty issued by the applicant or licensee.

(11) The applicant or licensee has coerced a motor vehicle dealer to provide installment financing for the motor vehicle dealer's purchasers with a specified financial institution.

(12) The applicant or licensee has advertised, printed, displayed, published, distributed, broadcast, or televised, or caused or permitted to be advertised, printed, displayed, published, distributed, broadcast, or televised, in any manner whatsoever, any statement or representation with regard to the sale or financing of motor vehicles which is false, deceptive, or misleading.

~~(13) The applicant or licensee has refused to deliver, in reasonable quantities and within a reasonable time, to any duly licensed motor vehicle dealer who has an agreement with such applicant or licensee for the retail sale of new motor vehicles and parts for motor vehicles sold or distributed by the applicant or licensee, any such motor vehicles or parts as are covered by such agreement specifically publicly advertised by such applicant or licensee to be available for immediate delivery. However, the failure to deliver any motor vehicle or part will not be considered a violation of this section if the failure is due to act of God, work stoppage, or delay due to a strike or labor difficulty, a freight embargo, product shortage, or other cause over which the applicant or licensee has no control. The failure to deliver parts or components for the current and 5 preceding years' models within 60 days from date of order shall be deemed prima facie unreasonable.~~

(13)~~(14)~~ The applicant or licensee has sold, exchanged, or rented a motorcycle which produces in excess of 5 brake horsepower, knowing the use thereof to be by, or intended for, the holder of a restricted Florida driver's license.

(14)~~(15)~~ The applicant or licensee has engaged in previous conduct which would have been a ground for revocation or suspension of a license if the applicant or licensee had been licensed.

~~(16) Notwithstanding the terms of any franchise agreement, and unless it can be shown that the licensee's franchised dealer is actively negligent, the applicant or licensee has failed to indemnify and hold harmless its franchised motor vehicle dealer against any judgment for damages or settlement agreed to in writing by the applicant or licensee, including, but not limited to, court costs and reasonable attorney's fees of the motor vehicle dealer, which judgment or settlement arose out of complaints, claims, or lawsuits based upon such grounds as strict liability; negligence; misrepresentation; warranty, express or implied; or rescission of the sale as described in s. 672.608, less any offset for use recovered by the licensee's franchised motor vehicle dealer, and only to the extent that the judgment or settlement relates to the alleged defective or negligent manufacture, assembly, or design of new motor vehicles, parts, or accessories or other functions of the manufacturer.~~

(15)~~(17)~~ The applicant or licensee, directly or indirectly, through the actions of any parent of the licensee, subsidiary of the licensee, or common entity causes a termination, cancellation, or nonrenewal of a franchise agreement by a present or previous distributor or importer unless, by the effective date of such action, the applicant or licensee offers the motor vehicle dealer whose franchise agreement is terminated, canceled, or not renewed a franchise agreement containing substantially the same provisions contained in the previous franchise agreement or files an affidavit with the department acknowledging its undertaking to assume and fulfill the rights, duties, and obligations of its predecessor distributor or importer under the terminated, canceled, or nonrenewed franchise agreement and the same is reinstated.

(16)~~(18)~~ Notwithstanding the terms of any franchise agreement, the applicant or licensee prevents or refuses to accept the succession to any interest in a franchise agreement by any legal heir or devisee under the will of a motor vehicle dealer or under the laws of descent and distribution of this state; provided, the applicant or licensee is not required to accept a succession where such heir or devisee does not meet licensee's written, reasonable, and uniformly applied minimal standard qualifications for dealer applicants or which, after notice and administrative hearing pursuant to chapter 120, is demonstrated to be detrimental to the public interest or to the representation of the applicant or licensee. Nothing contained herein, however, shall prevent a motor vehicle dealer, during his or her lifetime, from designating any person as his or her successor in interest by written instrument filed with and accepted by the applicant or licensee. A licensee who rejects the successor transferee under this subsection shall have the burden of establishing in any proceeding where such rejection is in issue that the rejection of the successor transferee complies with this subsection.

(17)~~(19)~~ The applicant or licensee has included in any franchise agreement with a motor vehicle dealer terms or provisions that are contrary to, prohibited by, or otherwise inconsistent with the provisions contained in ss. 320.60-320.70, or has failed to include in such franchise agreement a provision conforming to the requirements of s. 320.63(3).

and on page 67, between lines 5 & 6

insert:

(19)~~(21)~~ The applicant or licensee, without good and fair cause, has delayed, refused, or failed to provide a supply of motor vehicles by series in reasonable quantities, including the models publicly advertised by the applicant or licensee as being available, or has delayed, refused, or failed to deliver motor vehicle parts and accessories within a reasonable time after receipt of an order by a franchised dealer. However, this subsection is not violated if such failure is caused by acts or causes beyond the control of the applicant or licensee.

(20)~~(22)~~ The applicant or licensee has required, or threatened to require, a motor vehicle dealer to prospectively assent to a release, assignment, novation, waiver, or estoppel, which instrument or document operates, or is intended by the applicant or licensee to operate, to relieve any person from any liability or obligation under the provisions of ss. 320.60-320.70.

(21)~~(23)~~ The applicant or licensee has threatened or coerced a motor vehicle dealer toward conduct or action whereby the dealer would waive or forego its right to protest the establishment or relocation of a motor vehicle dealer in the community or territory serviced by the threatened or coerced dealer.

and on page 71, between lines 9 & 10

insert:

A motor vehicle dealer who can demonstrate that a violation of, or failure to comply with, any of the preceding provisions by an applicant or licensee will or can adversely and pecuniarily affect the complaining dealer, shall be entitled to pursue all of the remedies, procedures, and rights of recovery available under ss. 320.695 and 320.697.

and on page 71, line 11,
remove from the bill: and a new subsection (8) is added

and on page 74, line 30,
remove from the bill: *320.643.*~~,~~

and insert in lieu thereof: *320.643.*

and on page 75, line 19,
remove from the bill: all of said line

and insert in lieu thereof: *dismissed with prejudice as moot. This subsection applies*

On page 77, lines 4-7,
remove from the bill: all of said lines

and insert in lieu thereof: complaint within *30 days after receipt of the complaint, unless the parties agree in writing to an extension,* ~~such 60 day period~~ or if the department, after a hearing,

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

REPRESENTATIVE BALL IN THE CHAIR

On motion by Rep. Gardiner, further consideration of **CS/CS/HB 807**, with pending amendment, was temporarily postponed under Rule 11.10.

HB 953—A bill to be entitled An act relating to burglary; creating s. 810.015, F.S.; providing legislative findings and intent; providing for retroactive operation; amending s. 810.02, F.S.; revising the definition of burglary; reenacting s. 943.325(1)(a), F.S.; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 350

Yeas—116

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

Nays—None

So the bill passed and was immediately certified to the Senate.

CS/HB 973 was taken up. On motion by Rep. Davis, the rules were waived and—

CS for SB 1366—A bill to be entitled An act relating to tax exemption; amending s. 196.202, F.S.; defining the term "totally and permanently disabled person"; providing an effective date.

—was substituted for CS/HB 973 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Davis, the rules were waived and CS for SB 1366 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 351

Yeas—114

The Chair	Andrews	Arza	Atwater
Alexander	Argenziano	Attkisson	Ausley

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

Nays—2

Baxley	Jordan

Votes after roll call:
Yeas—Brummer
Nays to Yeas—Baxley, Jordan

So the bill passed and was immediately certified to the Senate.

CS/CS/HB 1053—A bill to be entitled An act relating to transportation; amending s. 333.03, F.S.; requiring an airport authority or other governing body operating a publicly owned public-use airport to utilize the most recently approved noise exposure map; amending s. 20.23, F.S.; revising language with respect to the organization of the department; deleting responsibilities assigned to the secretary; providing that the secretary or his or her designee shall submit a report on major actions at each meeting of the Florida Transportation Commission; s. 315.031, F.S.; authorizing certain entertainment expenditures for seaport; revising language with respect to assistant secretaries; creating the Office of Comptroller; deleting language with respect to the inspector general and comptroller; changing the Turnpike District into a turnpike enterprise; giving the Secretary of Transportation the authority to exempt the turnpike enterprise from department policies, procedures, and standards; giving the secretary authority to promulgate rules that will assist the turnpike enterprise in using best business practices; amending s. 110.205, F.S.; correcting cross references, to conform; amending s. 189.441, F.S.; removing an exemption to s. 287.055, F.S.; amending s. 206.46, F.S.; revising language with respect to the State Transportation Trust Fund; increasing the debt service cap; amending s. 255.20, F.S.; exempting certain transportation projects for certain competitive bidding requirements; amending s. 287.005, F.S.; increasing the amount defining a continuing contract; amending s. 311.07, F.S.; adding seaport security projects to the types of projects eligible for these funds; exempting seaport security projects from matching requirements; amending s. 311.09, F.S.; directing seaports to abide by the provisions of s. 287.055, F.S., related to competitive negotiation; amending s. 316.302, F.S.; revising a date concerning commercial motor vehicles to conform to federal regulations; amending s. 316.3025, F.S.; updating a cross reference to federal trucking regulations; amending s. 316.515, F.S.; deleting a requirement for a department permit with respect to the height of automobile transporters; amending s. 316.535, F.S.; adding weight requirements for certain commercial trucks; amending s. 316.545, F.S.; correcting a cross reference; amending s. 330.27, F.S.; revising definitions relating to aviation; providing definitions; amending s. 316.650, F.S.; requiring the issuance of a copy of the Traffic School Reference Guide with traffic citations; amending s. 318.14, F.S.; deleting reference to a restriction on the number of elections a person may make to attend a basic driver improvement course; amending s. 318.1451, F.S.; providing an assessment fee with respect to driver improvement courses for persons who are ordered by the court to attend and for certain other violations; amending s. 322.0261, F.S.; deleting reference to a time period and increasing the amount of damage required with respect to a crash for the screening of certain crash reports; creating s. 322.02615, F.S.; providing for mandatory driver improvement courses for certain violations; amending s. 322.05, F.S.; adding a condition for the issuance of a driver's license to certain persons; amending s. 330.29, F.S.; clarifying the department's rulemaking authority with respect to airports; amending s. 330.30, F.S.; eliminating airport license fees; revising language with respect to the department's site approval process; eliminating on-site inspections of private airports; creating a registration process for private airports; providing conditions; deleting obsolete language; providing exceptions; amending s. 330.35, F.S.; deleting obsolete language with respect to airport zoning; amending s. 330.36, F.S.; providing conditions under which municipalities may prohibit or otherwise regulate seaplanes; amending s. 332.004, F.S.; adding off-airport noise mitigation projects to the projects eligible for federal and state matching funds; amending s. 334.044, F.S.; authorizing the department to expend promotional money on scenic highway projects; authorizing the department to delegate its drainage permitting responsibilities to other governmental entities under certain circumstances; amending s. 334.193, F.S.; providing for employee bidding by department employees; amending s. 334.30, F.S.; clarifying existing program for public-private transportation projects; deleting requirement for legislative approval except for projects requiring more than $50 million from the State Transportation Trust Fund; specifying notice and selection requirements for projects under this section; allowing Internal Revenue Service Code chapter 63-20 corporations to participate in these public-private transportation projects; providing conditions for using loans from Toll Facilities Revolving Trust Fund; deleting obsolete language; creating s. 335.066, F.S.; creating the Safe Paths to Schools Program; directing the department to establish the program and to authorize establishment of a grant program for purposes of funding the program; authorizing the department to adopt rules to administer the program; amending s. 335.141, F.S.; eliminating the requirement that the department regulate all train speeds; amending s. 336.12, F.S.; creating process for homeowners' associations to be conveyed roads and rights-of-way abandoned by a county governing board for the purpose of converting a subdivision to a gated neighborhood; amending s. 336.41, F.S.; clarifying that a contract already qualified by the Department of Transportation is presumed qualified to bid on county road projects; amending s. 336.44, F.S.; replacing the term "competent" with "responsible bidder"; amending s. 337.107, F.S.; authorizing the department to enter into design-build contracts that include right-of-acquisition services; amending s. 337.11, F.S.; raising the cap on certain contracts into which the department can enter without first obtaining bids; adding enhancement projects to the types of projects that can be combined into a design-build contract; specifying that construction on design-build projects may not begin until certain conditions have been met; amending s. 337.14, F.S.; clarifying that contractors qualified by the Department of Transportation are presumed qualified to bid on projects for expressway authorities; amending s. 337.401, F.S.; providing that for projects on public roads or rail corridors under the department's jurisdiction, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit; amending s. 339.08, F.S.; clarifying language with respect to the use of moneys in the State Transportation Trust Fund; amending s. 339.12, F.S.; providing that local governments which perform projects for the department are reimbursed promptly; specifying that certain counties that use revenues from a 1-cent local option sales tax for state transportation improvement projects not be penalized by receiving fewer state transportation funds; amending s. 339.135, F.S.; conforming language with respect to the tentative work program; conforming a reference to the turnpike district; amending s. 339.137, F.S.; revising definitions; amending criteria for program eligibility; directing the advisory council to develop methodology for ranking and prioritizing

project proposals; directing the Florida Transportation Commission to review the proposed project list before submittal to the Legislature; amending s. 341.051, F.S.; deleting obsolete language; amending s. 341.302, F.S.; deleting language requiring the department to perform certain railroad regulation tasks which are federal responsibilities; amending s. 348.0003, F.S.; giving a county governing body authority to set qualifications, terms of office, and obligations for the members of expressway authorities within their jurisdictions; amending ss. 348.0012, 348.754, 348.7543, 348.7544, 348.7545, 348.755, and 348.765, F.S.; giving the Orlando-Orange County Expressway Authority the ability to issue bonds, rather than issuance through the state Division of Bond Finance; amending s. 373.4137, F.S.; allowing transportation authorities created pursuant to chs. 348 and 349, F.S., to create environmental impact inventories and participate in a mitigation program to offset adverse impacts caused by their transportation projects; amending s. 373.414, F.S.; providing for legislative review of the uniform wetland mitigation assessment method rule; amending s. 475.011, F.S.; granting exemption from Florida licensing for certain firms or their employees under contract with the state or a local governmental entity to provide right-of-way acquisition services for property subject to condemnation; amending s. 479.15, F.S.; revising language with respect to harmony of regulations concerning lawfully erected signs; creating s. 479.25, F.S.; authorizing local governments to enter into agreements which allow outdoor signs to be erected above sound barriers; creating s. 70.20, F.S.; creating process for governmental entities and sign owners to enter into relocation and reconstruction agreements related to outdoor advertising signs; providing for just compensation to sign owners under certain conditions; amending s. 496.425, F.S.; redefining the term "facility"; creating s. 496.4256, F.S.; providing that a governmental entity or authority that owns or operates welcome centers, wayside parks, service plazas, or rest areas on the state highway system are not required to issue a permit to, or grant access to, any person for the purpose of soliciting funds; repealing s. 316.3027, F.S.; relating to identification requirements on certain commercial motor vehicles; amending s. 337.408, F.S.; revising language with respect to the regulation of benches, transit shelters, and waste disposal receptacles within rights-of-way; providing for regulation of street light poles; amending s. 380.0651, F.S.; excluding certain wholesaling facilities from development-of-regional-impact review; deleting provision which provides the development-of-regional-impact statewide guidelines and standards for airports; deleting provision which provides for certain residential developments located in one county to be treated as located in an adjacent less populated county; amending s. 768.28, F.S.; providing that certain operators of rail services and providers of security for rail services are agents of the state for certain purposes; providing for indemnification; repealing s. 316.610(3), F.S.; relating to certain inspections of certain commercial motor vehicles; amending s. 337.025, F.S.; eliminating cap on innovative highway projects for the turnpike enterprise; amending s. 337.11, F.S.; providing an exemption for a turnpike enterprise project; amending s. 338.22, F.S.; redesignating the Florida Turnpike Law as the Florida Turnpike Enterprise Law; amending s. 338.221, F.S.; redefining the term "economically feasible" as used with respect to turnpike projects; creating s. 338.2215, F.S.; providing legislative findings, policy, purpose, and intent for the Florida Turnpike Enterprise; creating s. 338.2216, F.S.; prescribing the power and authority of the turnpike enterprise; amending s. 338.223, F.S.; increasing the maximum loan amount for the turnpike enterprise; amending ss. 338.165 and 338.227, F.S.; conforming provisions; amending s. 338.2275, F.S.; authorizing the turnpike enterprise to advertise for bids for contracts prior to obtaining environmental permits; amending s. 338.234, F.S.; authorizing the turnpike enterprise to expand business opportunities; amending s. 338.235, F.S.; authorizing the consideration of goods instead of fees; amending s. 338.239, F.S.; providing that approved expenditure to the Florida Highway Patrol be paid by the turnpike enterprise; amending s. 338.241, F.S.; lowering the required cash reserve for the turnpike enterprise; amending s. 338.251, F.S.; conforming provisions; amending s. 553.80, F.S.; providing for self-regulation; amending s. 333.06, F.S.; requiring each licensed publicly owned and operated airport to prepare an airport master plan; providing notice to affected local governments with respect thereto; amending s. 380.06, F.S., relating to developments of regional impact; removing the rebuttable presumptions with respect to application of the statewide guidelines and standards; removing provisions which specify that certain changes in airport facilities or increases in the storage capacity for chemical or petroleum storage facilities constitute a substantial deviation and require further development-of-regional-impact review; exempting certain proposed facilities for the storage of any petroleum product from development-of-regional-impact requirements; amending ss. 163.3180 and 331.303, F.S.; correcting references; providing application with respect to airports and petroleum storage facilities which have received a development-of-regional-impact development order, or which have an application for development approval or notification of proposed change pending, on the effective date of the act; providing for severability; authorizing a board of county commissioners to require by ordinance that an additional amount be collected with each civil fine and used to fund traffic education and awareness programs; providing an effective date.

—was read the third time by title.

Representative(s) Russell offered the following:

(Amendment Bar Code: 742687)

Amendment 8 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Section 20.23, Florida Statutes, is amended to read:

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

(1)(a)~~1.~~ The head of the Department of Transportation is the Secretary of Transportation. The secretary shall be appointed by the Governor from among three persons nominated by the Florida Transportation Commission and shall be subject to confirmation by the Senate. The secretary shall serve at the pleasure of the Governor.

(b)~~2.~~ The secretary shall be a proven, effective administrator who by a combination of education and experience shall clearly possess a broad knowledge of the administrative, financial, and technical aspects of the development, operation, and regulation of transportation systems and facilities or comparable systems and facilities.

~~(b)1. The secretary shall employ all personnel of the department. He or she shall implement all laws, rules, policies, and procedures applicable to the operation of the department and may not by his or her actions disregard or act in a manner contrary to any such policy. The secretary shall represent the department in its dealings with other state agencies, local governments, special districts, and the Federal Government. He or she shall have authority to sign and execute all documents and papers necessary to carry out his or her duties and the operations of the department. At each meeting of the Florida Transportation Commission, the secretary shall submit a report of major actions taken by him or her as official representative of the department.~~

~~2. The secretary shall cause the annual department budget request, the Florida Transportation Plan, and the tentative work program to be prepared in accordance with all applicable laws and departmental policies and shall submit the budget, plan, and program to the Florida Transportation Commission. The commission shall perform an in-depth evaluation of the budget, plan, and program for compliance with all applicable laws and departmental policies. If the commission determines that the budget, plan, or program is not in compliance with all applicable laws and departmental policies, it shall report its findings and recommendations regarding such noncompliance to the Legislature and the Governor.~~

(c)~~3.~~ The secretary shall provide to the Florida Transportation Commission or its staff, such assistance, information, and documents as are requested by the commission or its staff to enable the commission to fulfill its duties and responsibilities.

(d)~~(c)~~ The secretary shall appoint *two* ~~three~~ assistant secretaries who shall be directly responsible to the secretary and who shall perform such duties as are specified in this section and such other duties as are assigned by the secretary. ~~The secretary may delegate to any assistant secretary the authority to act in the absence of the secretary. The department has the authority to adopt rules necessary for the delegation of authority beyond the assistant secretaries. The assistant secretaries shall serve at the pleasure of the secretary.~~

(e)~~(d)~~ Any secretary appointed after July 5, 1989, and the assistant secretaries shall be exempt from the provisions of part III of chapter 110 and shall receive compensation commensurate with their qualifications and competitive with compensation for comparable responsibility in the private sector. When the salary of any assistant secretary exceeds the limits established in part III of chapter 110, the Governor shall approve said salary.

(2)(a)1. The Florida Transportation Commission is hereby created and shall consist of nine members appointed by the Governor subject to confirmation by the Senate. Members of the commission shall serve terms of 4 years each.

2. Members shall be appointed in such a manner as to equitably represent all geographic areas of the state. Each member must be a registered voter and a citizen of the state. Each member of the commission must also possess business managerial experience in the private sector.

3. A member of the commission shall represent the transportation needs of the state as a whole and may not subordinate the needs of the state to those of any particular area of the state.

4. The commission is assigned to the Office of the Secretary of the Department of Transportation for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control and direction of the department.

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

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

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

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

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

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

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

7. Recommend to the Governor and the Legislature improvements to the department's organization in order to streamline and optimize the efficiency of the department. In reviewing the department's organization, the commission shall determine if the current district organizational structure is responsive to Florida's changing economic and demographic development patterns. The initial report by the commission must be delivered to the Governor and Legislature by December 15, 2000, and each year thereafter, as appropriate. The commission may retain such experts as are reasonably necessary to effectuate this subparagraph, and the department shall pay the expenses of such experts.

(c) The commission or a member thereof may not enter into the day-to-day operation of the department and is specifically prohibited from taking part in:

1. The awarding of contracts.

2. The selection of a consultant or contractor or the prequalification of any individual consultant or contractor. However, the commission may recommend to the secretary standards and policies governing the procedure for selection and prequalification of consultants and contractors.

3. The selection of a route for a specific project.

4. The specific location of a transportation facility.

5. The acquisition of rights-of-way.

6. The employment, promotion, demotion, suspension, transfer, or discharge of any department personnel.

7. The granting, denial, suspension, or revocation of any license or permit issued by the department.

(d)1. The chair of the commission shall be selected by the commission members and shall serve a 1-year term.

2. The commission shall hold a minimum of 4 regular meetings annually, and other meetings may be called by the chair upon giving at least 1 week's notice to all members and the public pursuant to chapter 120. Other meetings may also be held upon the written request of at least four other members of the commission, with at least 1 week's notice of such meeting being given to all members and the public by the chair pursuant to chapter 120. Emergency meetings may be held without notice upon the request of all members of the commission. *At each meeting of the commission, the secretary or his or her designee shall submit a report of major actions taken by him or her as official representative of the department.*

3. A majority of the membership of the commission constitutes a quorum at any meeting of the commission. An action of the commission is not binding unless the action is taken pursuant to an affirmative vote of a majority of the members present, but not fewer than four members of the commission at a meeting held pursuant to subparagraph 2., and the vote is recorded in the minutes of that meeting.

4. The chair shall cause to be made a complete record of the proceedings of the commission, which record shall be open for public inspection.

(e) The meetings of the commission shall be held in the central office of the department in Tallahassee unless the chair determines that special circumstances warrant meeting at another location.

(f) Members of the commission are entitled to per diem and travel expenses pursuant to s. 112.061.

(g) A member of the commission may not have any interest, direct or indirect, in any contract, franchise, privilege, or other benefit granted or awarded by the department during the term of his or her appointment and for 2 years after the termination of such appointment.

(h) The commission shall appoint an executive director and assistant executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to perform adequately the functions of the commission, within budgetary limitations. All employees of the commission are exempt from part II of chapter 110 and shall serve at the pleasure of the commission. The salaries and benefits of all employees of the commission shall be set in accordance with the Selected Exempt Service; provided, however,

that the commission shall have complete authority for fixing the salary of the executive director and assistant executive director.

(i) The commission shall develop a budget pursuant to chapter 216. The budget is not subject to change by the department, but such budget shall be submitted to the Governor along with the budget of the department.

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

~~(b) The resources necessary to ensure the efficiency, effectiveness, and quality of performance by the department of its statutory responsibilities shall be allocated to the central office.~~

(b)~~(c)~~ The secretary shall appoint an Assistant Secretary for Transportation Policy *and*~~,~~ an Assistant Secretary for Finance and Administration~~, and an Assistant Secretary for District Operations~~, each of whom shall serve at the pleasure of the secretary. ~~The positions are responsible for developing, monitoring, and enforcing policy and managing major technical programs. The responsibilities and duties of these positions include, but are not limited to, the following functional areas:~~

~~1. Assistant Secretary for Transportation Policy.—~~

~~a. Development of the Florida Transportation Plan and other policy planning;~~

~~b. Development of statewide modal systems plans, including public transportation systems;~~

~~c. Design of transportation facilities;~~

~~d. Construction of transportation facilities;~~

~~e. Acquisition and management of transportation rights-of-way; and~~

~~f. Administration of motor carrier compliance and safety.~~

~~2. Assistant Secretary for District Operations.—~~

~~a. Administration of the eight districts; and~~

~~b. Implementation of the decentralization of the department.~~

~~3. Assistant Secretary for Finance and Administration.—~~

~~a. Financial planning and management;~~

~~b. Information systems;~~

~~c. Accounting systems;~~

~~d. Administrative functions; and~~

~~e. Administration of toll operations.~~

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

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

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

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

~~d. Performing other activities of a statewide nature.~~

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

a. The Office of Administration;

b. The Office of Policy Planning;

c. The Office of Design;

d. The Office of Highway Operations;

e. The Office of Right-of-Way;

f. The Office of Toll Operations;

g. The Office of Information Systems; ~~and~~

h. The Office of Motor Carrier Compliance~~;~~*,*

i. The Office of Management and Budget; and

j. The Office of Comptroller.

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

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

~~(e) The Assistant Secretary for Finance and Administration must possess a broad knowledge of the administrative, financial, and technical aspects of a complete cost-accounting system, budget preparation and management, and management information systems. The Assistant Secretary for Finance and Administration must be a proven, effective manager with specialized skills in financial planning and management. The Assistant Secretary for Finance and Administration shall ensure that financial information is processed in a timely, accurate, and complete manner.~~

~~(f)1. Within the central office there is created an Office of Management and Budget. The head of the Office of Management and Budget is responsible to the Assistant Secretary for Finance and Administration and is exempt from part II of chapter 110.~~

~~2. The functions of the Office of Management and Budget include, but are not limited to:~~

~~a. Preparation of the work program;~~

~~b. Preparation of the departmental budget; and~~

~~c. Coordination of related policies and procedures.~~

~~3. The Office of Management and Budget shall also be responsible for developing uniform implementation and monitoring procedures for all activities performed at the district level involving the budget and the work program.~~

(c)~~(g)~~ The secretary *shall* ~~may~~ appoint an inspector general *pursuant to s. 20.055* who shall be directly responsible to the secretary and shall serve at the pleasure of the secretary.

~~(h)1. The secretary shall appoint an inspector general pursuant to s. 20.055. To comply with recommended professional auditing standards related to independence and objectivity, the inspector general shall be appointed to a position within the Career Service System and may be removed by the secretary with the concurrence of the Transportation Commission. In order to attract and retain an individual who has the proven technical and administrative skills necessary to comply with the requirements of this section, the agency head may appoint the inspector general to a classification level within the Career Service System that is equivalent to that provided for in part III of chapter 110. The inspector general may be organizationally located within another unit of the department for administrative purposes, but shall function independently and be directly responsible to the secretary pursuant to s. 20.055. The duties of the inspector general shall include, but are not restricted to, reviewing, evaluating, and reporting on the policies, plans, procedures, and accounting, financial, and other operations of the department and recommending changes for the improvement thereof, as well as performing audits of contracts and agreements between the department and private entities or other governmental entities. The inspector general shall give priority to reviewing major parts of the department's accounting system and central office monitoring function to determine whether such systems effectively ensure accountability and compliance with all laws, rules, policies, and procedures applicable to the operation of the department. The inspector general shall also give priority to assessing the department's management information systems as required by s. 282.318. The internal audit function shall use the necessary expertise, in particular, engineering, financial, and property appraising expertise, to independently evaluate the technical aspects of the department's operations. The inspector general shall have access at all times to any personnel, records, data, or other information of the department and shall determine the methods and procedures necessary to carry out his or her duties. The inspector general is responsible for audits of departmental operations and for audits of consultant contracts and agreements, and such audits shall be conducted in accordance with generally accepted governmental auditing standards. The inspector general shall annually perform a sufficient number of audits to determine the efficiency and effectiveness, as well as verify the accuracy of estimates and charges, of contracts executed by the department with private entities and other governmental entities. The inspector general has the sole responsibility for the contents of his or her reports, and a copy of each report containing his or her findings and recommendations shall be furnished directly to the secretary and the commission.~~

~~2. In addition to the authority and responsibilities herein provided, the inspector general is required to report to the:~~

~~a. Secretary whenever the inspector general makes a preliminary determination that particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the department have occurred. The secretary shall review and assess the correctness of the preliminary determination by the inspector general. If the preliminary determination is substantiated, the secretary shall submit such report to the appropriate committees of the Legislature within 7 calendar days, together with a report by the secretary containing any comments deemed appropriate. Nothing in this section shall be construed to authorize the public disclosure of information which is specifically prohibited from disclosure by any other provision of law.~~

~~b. Transportation Commission and the Legislature any actions by the secretary that prohibit the inspector general from initiating, carrying out, or completing any audit after the inspector general has decided to initiate, carry out, or complete such audit. The secretary shall, within 30 days after transmission of the report, set forth in a statement to the Transportation Commission and the Legislature the reasons for his or her actions.~~

~~(i)1. The secretary shall appoint a comptroller who is responsible to the Assistant Secretary for Finance and Administration. This position is exempt from part II of chapter 110.~~

~~2. The comptroller is the chief financial officer of the department and must be a proven, effective administrator who by a combination of education and experience clearly possesses a broad knowledge of the administrative, financial, and technical aspects of a complex cost-accounting system. The comptroller must also have a working knowledge of generally accepted accounting principles. At a minimum, the comptroller must hold an active license to practice public accounting in Florida pursuant to chapter 473 or an active license to practice public accounting in any other state. In addition to the requirements of the Florida Fiscal Accounting Management Information System Act, the comptroller is responsible for the development, maintenance, and modification of an accounting system that will in a timely manner accurately reflect the revenues and expenditures of the department and that includes a cost-accounting system to properly identify, segregate, allocate, and report department costs. The comptroller shall supervise and direct preparation of a detailed 36-month forecast of cash and expenditures and is responsible for managing cash and determining cash requirements. The comptroller shall review all comparative cost studies that examine the cost-effectiveness and feasibility of contracting for services and operations performed by the department. The review must state that the study was prepared in accordance with generally accepted cost-accounting standards applied in a consistent manner using valid and accurate cost data.~~

~~3. The department shall by rule or internal management memoranda as required by chapter 120 provide for the maintenance by the comptroller of financial records and accounts of the department as will afford a full and complete check against the improper payment of bills and provide a system for the prompt payment of the just obligations of the department, which records must at all times disclose:~~

~~a. The several appropriations available for the use of the department;~~

~~b. The specific amounts of each such appropriation budgeted by the department for each improvement or purpose;~~

~~c. The apportionment or division of all such appropriations among the several counties and districts, when such apportionment or division is made;~~

~~d. The amount or portion of each such apportionment against general contractual and other liabilities then created;~~

~~e. The amount expended and still to be expended in connection with each contractual and other obligation of the department;~~

~~f. The expense and operating costs of the various activities of the department;~~

~~g. The receipts accruing to the department and the distribution thereof;~~

~~h. The assets, investments, and liabilities of the department; and~~

~~i. The cash requirements of the department for a 36-month period.~~

~~4. The comptroller shall maintain a separate account for each fund administered by the department.~~

~~5. The comptroller shall perform such other related duties as designated by the department.~~

(d)~~(j)~~ The secretary shall appoint a general counsel who shall be ~~employed full time and shall be~~ directly responsible to the secretary *and shall serve at the pleasure of the secretary*. The general counsel is responsible for all legal matters of the department. The department may employ as many attorneys as it deems necessary to advise and represent the department in all transportation matters.

(e)~~(k)~~ The secretary shall appoint a state transportation planner ~~who shall report to the Assistant Secretary for Transportation Policy. The state transportation planner's responsibilities shall include, but are not limited to, policy planning, systems planning, and transportation statistics~~. This position shall be classified at a level equal to a deputy assistant secretary.

(f)~~(l)~~ The secretary shall appoint a state highway engineer ~~who shall report to the Assistant Secretary for Transportation Policy. The state~~

~~highway engineer's responsibilities shall include, but are not limited to, design, construction, and maintenance of highway facilities; acquisition and management of transportation rights-of-way; traffic engineering; and materials testing~~. This position shall be classified at a level equal to a deputy assistant secretary.

(g)~~(m)~~ The secretary shall appoint a state public transportation administrator ~~who shall report to the Assistant Secretary for Transportation Policy. The state public transportation administrator's responsibilities shall include, but are not limited to, the administration of statewide transit, rail, intermodal development, and aviation programs~~. This position shall be classified at a level equal to a deputy assistant secretary. ~~The department shall also assign to the public transportation administrator an organizational unit the primary function of which is to administer the high-speed rail program.~~

(4)(a) The operations of the department shall be organized into *seven* ~~eight~~ districts, ~~including a turnpike district,~~ each headed by a district secretary*, and a turnpike enterprise, headed by an executive director*. ~~The district secretaries shall report to the Assistant Secretary for District Operations.~~ The headquarters of the districts shall be located in Polk, Columbia, Washington, Broward, Volusia, Dade, *and* Hillsborough~~, and Leon~~ Counties. *The headquarters of the turnpike enterprise shall be located in Orange County.* ~~The turnpike district must be relocated to Orange County in the year 2000.~~ In order to provide for efficient operations and to expedite the decisionmaking process, the department shall provide for maximum decentralization to the districts. However, before making a decision to centralize or decentralize department operations ~~or relocate the turnpike district~~, the department must first determine if the decision would be cost-effective and in the public's best interest. The department shall periodically evaluate such decisions to ensure that they are appropriate.

(b) The primary responsibility for the implementation of the department's transportation programs shall be delegated by the secretary to the district secretaries, and sufficient authority shall be vested in each district to ensure adequate control of the resources commensurate with the delegated responsibility. Each district secretary shall also be accountable for ensuring their district's quality of performance and compliance with all laws, rules, policies, and procedures related to the operation of the department.

(c) Each district secretary may appoint a district director for planning and programming, a district director for production, and a district director for operations. These positions are exempt from part II of chapter 110.

(d) Within each district, offices shall be established for managing major functional responsibilities of the department. ~~The offices may include planning, design, construction, right-of-way, maintenance, and public transportation.~~ The heads of these offices shall be exempt from part II of chapter 110.

(e) The district director for the Fort Myers Urban Office of the Department of Transportation is responsible for developing the 5-year Transportation Plan for Charlotte, Collier, DeSoto, Glades, Hendry, and Lee Counties. The Fort Myers Urban Office also is responsible for providing policy, direction, local government coordination, and planning for those counties.

(f)1. The responsibility for the turnpike system shall be delegated by the secretary to the executive director of the turnpike enterprise, who shall serve at the pleasure of the secretary. The executive director shall report directly to the secretary, and the turnpike enterprise shall operate pursuant to ss. 338.22-338.241.

2. To facilitate the most efficient and effective management of the turnpike enterprise, including the use of best business practices employed by the private sector, the turnpike enterprise shall be exempt from departmental policies, procedures, and standards, subject to the Secretary having the authority to apply any such policies, procedures, and standards to the turnpike enterprise from time to time as deemed appropriate.

3. To enhance the ability of the turnpike enterprise to use best business practices employed by the private sector, the Secretary shall promulgate rules which exempt the turnpike enterprise from department rules and authorize the turnpike enterprise to employ procurement methods available to the private sector.

(5) Notwithstanding the provisions of s. 110.205, the Department of Management Services is authorized to exempt positions within the Department of Transportation which are comparable to positions within the Senior Management Service pursuant to s. 110.205(2)(i) or positions which are comparable to positions in the Selected Exempt Service under s. 110.205(2)(l).

~~(6) To facilitate the efficient and effective management of the department in a businesslike manner, the department shall develop a system for the submission of monthly management reports to the Florida Transportation Commission and secretary from the district secretaries. The commission and the secretary shall determine which reports are required to fulfill their respective responsibilities under this section. A copy of each such report shall be submitted monthly to the appropriations and transportation committees of the Senate and the House of Representatives. Recommendations made by the Auditor General in his or her audits of the department that relate to management practices, systems, or reports shall be implemented in a timely manner. However, if the department determines that one or more of the recommendations should be altered or should not be implemented, it shall provide a written explanation of such determination to the Legislative Auditing Committee within 6 months after the date the recommendations were published.~~

(6)~~(7)~~ The department is authorized to contract with local governmental entities and with the private sector if the department first determines that:

(a) Consultants can do the work at less cost than state employees;

(b) State employees can do the work at less cost, but sufficient positions have not been approved by the Legislature as requested in the department's most recent legislative budget request;

(c) The work requires specialized expertise, and it would not be economical for the state to acquire, and then maintain, the expertise after the work is done;

(d) The workload is at a peak level, and it would not be economical to acquire, and then keep, extra personnel after the workload decreases; or

(e) The use of such entities is clearly in the public's best interest.

Such contracts shall require compliance with applicable federal and state laws, and clearly specify the product or service to be provided.

Section 2. Paragraphs (i) and (l) of subsection (2) of section 110.205, Florida Statutes, are amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(i) The appointed secretaries, assistant secretaries, deputy secretaries, and deputy assistant secretaries of all departments; the executive directors, assistant executive directors, deputy executive directors, and deputy assistant executive directors of all departments; and the directors of all divisions and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, program directors, assistant program directors, district administrators, deputy district administrators, the Director of Central Operations Services of the Department of Children and Family Services, and the State Transportation Planner, State Highway Engineer, State Public Transportation Administrator, district secretaries, district directors of

planning and programming, production, and operations, and the managers of the offices specified in s. 20.23(3)*(b)1.*~~(d)2.~~, of the Department of Transportation. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Senior Management Service.

(l) All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, positions in the Department of Health, the Department of Children and Family Services, and the Department of Corrections that are assigned primary duties of serving as the superintendent or assistant superintendent, or warden or assistant warden, of an institution; positions in the Department of Corrections that are assigned primary duties of serving as the circuit administrator or deputy circuit administrator; positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices as defined in s. 20.23(3)*(b)2.*~~(d)3.~~ and (4)(d); positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator; those positions described in s. 20.171 as included in the Senior Management Service; and positions in the Department of Health that are assigned the duties of Environmental Administrator, Assistant County Health Department Director, and County Health Department Financial Administrator. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

Section 3. Paragraph (c) of subsection (2) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(2)

(c) Consistent with the public welfare, and except as otherwise provided in this section, transportation facilities *designated as part of the Florida Intrastate Highway System needed to serve new development shall be in place or under actual construction no more than 5 years after issuance by the local government of a certificate of occupancy or its functional equivalent. Other transportation facilities* needed to serve new development shall be in place or under actual construction no more than 3 years after issuance by the local government of a certificate of occupancy or its functional equivalent.

Section 4. Section 189.441, Florida Statutes, is amended to read:

189.441 Contracts.—Contracts for the construction of projects and for any other purpose of the authority may be awarded by the authority in a manner that will best promote free and open competition, including advertisement for competitive bids; however, if the authority determines that the purposes of this act will be more effectively served thereby, the authority may award or cause to be awarded contracts for the construction of any project, including design-build contracts, or any part thereof, or for any other purpose of the authority upon a negotiated basis as determined by the authority. Each contractor doing business with the authority and required to be licensed by the state or local general-purpose governments must maintain the license during the term of the contract with the authority. The authority may prescribe bid security requirements and other procedures in connection with the award of contracts which protect the public interest. ~~Section 287.055 does not apply to the selection of professional architectural, engineering, landscape architectural, or land surveying services by the authority or to the procurement of design-build contracts.~~ The authority may, and in the case of a new professional sports franchise must, by written contract engage the services of the operator, lessee, sublessee, or purchaser, or prospective operator, lessee, sublessee, or purchaser, of any project in the construction of the project and may, and in the case of a new professional sports franchise must, provide in the contract that the lessee, sublessee, purchaser, or prospective lessee, sublessee, or purchaser, may act as an agent of, or an independent contractor for, the authority for the performance of the functions described therein, subject to the conditions and requirements prescribed in the contract, including functions such as the acquisition of the site and other real property for the project; the preparation of plans, specifications, financing, and contract documents; the award of construction and other contracts upon a competitive or negotiated basis; the construction of the project, or any part thereof, directly by the lessee, purchaser, or prospective lessee or purchaser; the inspection and supervision of construction; the employment of engineers, architects, builders, and other contractors; and the provision of money to pay the cost thereof pending reimbursement by the authority. Any such contract may, and in the case of a new professional sports franchise must, allow the authority to make advances to or reimburse the lessee, sublessee, or purchaser, or prospective lessee, sublessee, or purchaser for its costs incurred in the performance of those functions, and must set forth the supporting documents required to be submitted to the authority and the reviews, examinations, and audits that are required in connection therewith to assure compliance with the contract.

Section 5. Subsection (2) of section 206.46, Florida Statutes, is amended to read:

206.46 State Transportation Trust Fund.—

(2) Notwithstanding any other provisions of law, from the revenues deposited into the State Transportation Trust Fund a maximum of 7 percent in each fiscal year shall be transferred into the Right-of-Way Acquisition and Bridge Construction Trust Fund created in s. 215.605, as needed to meet the requirements of the documents authorizing the bonds issued or proposed to be issued under ss. 215.605 and 337.276 or at a minimum amount sufficient to pay for the debt service coverage requirements of outstanding bonds. Notwithstanding the 7 percent annual transfer authorized in this subsection, the annual amount transferred under this subsection shall not exceed an amount necessary to provide the required debt service coverage levels for a maximum debt service not to exceed *$200* ~~$135~~ million. Such transfer shall be payable primarily from the motor and diesel fuel taxes transferred to the State Transportation Trust Fund from the Fuel Tax Collection Trust Fund.

Section 6. Paragraph (a) of subsection (1) of section 255.20, Florida Statutes, is amended to read:

255.20 Local bids and contracts for public construction works; specification of state-produced lumber.—

(1) A county, municipality, special district as defined in chapter 189, or other political subdivision of the state seeking to construct or improve a public building, structure, or other public construction works must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to have total construction project costs of more than $200,000. For electrical work, local government must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to have a cost of more than $50,000. As used in this section, the term "competitively award" means to award contracts based on the submission of sealed bids, proposals submitted in response to a request for proposal, proposals submitted in response to a request for qualifications, or proposals submitted for competitive negotiation. This subsection expressly allows contracts for construction management services, design/build contracts, continuation contracts based on unit prices, and any other contract arrangement with a private sector contractor permitted by any applicable municipal or county ordinance, by district resolution, or by state law. For purposes of this section, construction costs include the cost of all labor, except inmate labor, and include the cost of equipment and materials to be used in the construction of the project. Subject to the provisions of subsection (3), the county, municipality, special district, or other political subdivision may establish, by municipal or county ordinance or special district resolution, procedures for conducting the bidding process.

(a) The provisions of this subsection do not apply:

1. When the project is undertaken to replace, reconstruct, or repair an existing facility damaged or destroyed by a sudden unexpected turn of events, such as an act of God, riot, fire, flood, accident, or other urgent circumstances, and such damage or destruction creates:

a. An immediate danger to the public health or safety;

b. Other loss to public or private property which requires emergency government action; or

c. An interruption of an essential governmental service.

2. When, after notice by publication in accordance with the applicable ordinance or resolution, the governmental entity does not receive any responsive bids or responses.

3. To construction, remodeling, repair, or improvement to a public electric or gas utility system when such work on the public utility system is performed by personnel of the system.

4. To construction, remodeling, repair, or improvement by a utility commission whose major contracts are to construct and operate a public electric utility system.

5. When the project is undertaken as repair or maintenance of an existing public facility.

6. When the project is undertaken exclusively as part of a public educational program.

7. When the funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent.

8. When the local government has competitively awarded a project to a private sector contractor and the contractor has abandoned the project before completion or the local government has terminated the contract.

9. When the governing board of the local government, after public notice, conducts a public meeting under s. 286.011 and finds by a majority vote of the governing board that it is in the public's best interest to perform the project using its own services, employees, and equipment. The public notice must be published at least 14 days prior to the date of the public meeting at which the governing board takes final action to apply this subparagraph. The notice must identify the project, the estimated cost of the project, and specify that the purpose for the public meeting is to consider whether it is in the public's best interest to perform the project using the local government's own services, employees, and equipment. In deciding whether it is in the public's best interest for local government to perform a project using its own services, employees, and equipment, the governing board may consider the cost of the project, whether the project requires an increase in the number of government employees, an increase in capital expenditures for public facilities, equipment or other capital assets, the impact on local economic development, the impact on small and minority business owners, the impact on state and local tax revenues, whether the private sector contractors provide health insurance and other benefits equivalent to those provided by the local government, and any other factor relevant to what is in the public's best interest.

10. When the governing board of the local government determines upon consideration of specific substantive criteria and administrative procedures that it is in the best interest of the local government to award the project to an appropriately licensed private sector contractor according to procedures established by and expressly set forth in a charter, ordinance, or resolution of the local government adopted prior to July 1, 1994. The criteria and procedures must be set out in the charter, ordinance, or resolution and must be applied uniformly by the local government to avoid award of any project in an arbitrary or capricious manner. This exception shall apply when all of the following occur:

a. When the governing board of the local government, after public notice, conducts a public meeting under s. 286.011 and finds by a two-thirds vote of the governing board that it is in the public's best interest to award the project according to the criteria and procedures established by charter, ordinance, or resolution. The public notice must be published at least 14 days prior to the date of the public meeting at which the governing board takes final action to apply this subparagraph. The notice must identify the project, the estimated cost of the project, and specify that the purpose for the public meeting is to consider whether it is in the public's best interest to award the project using the criteria and procedures permitted by the preexisting ordinance.

b. In the event the project is to be awarded by any method other than a competitive selection process, the governing board must find evidence that:

(I) There is one appropriately licensed contractor who is uniquely qualified to undertake the project because that contractor is currently under contract to perform work that is affiliated with the project; or

(II) The time to competitively award the project will jeopardize the funding for the project, or will materially increase the cost of the project or will create an undue hardship on the public health, safety, or welfare.

c. In the event the project is to be awarded by any method other than a competitive selection process, the published notice must clearly specify the ordinance or resolution by which the private sector contractor will be selected and the criteria to be considered.

d. In the event the project is to be awarded by a method other than a competitive selection process, the architect or engineer of record has provided a written recommendation that the project be awarded to the private sector contractor without competitive selection; and the consideration by, and the justification of, the government body are documented, in writing, in the project file and are presented to the governing board prior to the approval required in this paragraph.

11. To projects subject to chapter 336.

Section 7. Paragraph (g) of subsection (2) of section 287.055, Florida Statutes, is amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.—

(2) DEFINITIONS.—For purposes of this section:

(g) A "continuing contract" is a contract for professional services entered into in accordance with all the procedures of this act between an agency and a firm whereby the firm provides professional services to the agency for projects in which construction costs do not exceed *$1 million* ~~$500,000~~, for study activity when the fee for such professional service does not exceed *$50,000* ~~$25,000~~, or for work of a specified nature as outlined in the contract required by the agency, with no time limitation except that the contract must provide a termination clause.

Section 8. Subsection (1) of Section 315.031, Florida Statutes is amended to read:

315.031 Promoting and advertising port facilities.—

(1) Each unit is authorized and empowered:

(a) To publicize, advertise and promote the activities and port facilities herein authorized;

(b) To make known the advantages, facilities, resources, products, attractions and attributes of the activities and port facilities herein authorized;

(c) To create a favorable climate of opinion concerning the activities and port facilities herein authorized;

(d) To cooperate with other agencies, public and private, in accomplishing these purposes;

(e) To enter into agreements with the purchaser or purchasers of port facilities bonds issued under the provisions of this law to establish a special fund to be set aside from the proceeds of the revenues collected under the provisions of s. 315.03(13), during any fiscal year, for the promotional activities authorized herein.

(f) To authorize expenditures for promotional activities authorized by this section, including meals, hospitality, and entertainment of persons

in the interest of promoting and engendering goodwill toward its port facilities.

~~Nothing herein shall be construed to authorize any unit to expend funds for meals, hospitality, amusement or any other purpose of an entertainment nature.~~

Section 9. Subsection (12) of section 311.09, Florida Statutes, is amended to read:

311.09 Florida Seaport Transportation and Economic Development Council.—

(12) Members of the council shall serve without compensation but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061. The council may elect to provide an administrative staff to provide services to the council on matters relating to the Florida Seaport Transportation and Economic Development Program and the council. The cost for such administrative services shall be paid by all ports that receive funding from the Florida Seaport Transportation and Economic Development Program, based upon a pro rata formula measured by each recipient's share of the funds as compared to the total funds disbursed to all recipients during the year. The share of costs for administrative services shall be paid in its total amount by the recipient port upon execution by the port and the Department of Transportation of a joint participation agreement for each council-approved project, and such payment is in addition to the matching funds required to be paid by the recipient port. Except as otherwise exempted by law, all moneys derived from the Florida Seaport Transportation and Economic Development Program shall be expended in accordance with the provisions of s. 287.057. Seaports subject to competitive negotiation requirements of a local governing body shall *abide by the provisions of s. 287.055* ~~be exempt from this requirement~~.

Section 10. Paragraph (b) of subsection (1) of section 316.302, Florida Statutes, is amended to read:

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

(1)

(b) Except as otherwise provided in this section, all owners or drivers of commercial motor vehicles that are engaged in intrastate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382, 385, and 390-397, with the exception of 49 C.F.R. s. 390.5 as it relates to the definition of bus, as such rules and regulations existed on *October 1, 2000* ~~March 1, 1999~~.

Section 11. Paragraph (a) of subsection (3) of section 316.3025, Florida Statutes, is amended to read:

316.3025 Penalties.—

(3)(a) A civil penalty of $50 may be assessed for a violation of *49 C.F.R. s. 390.21* ~~s. 316.3027~~.

Section 12. Subsection (2) of section 316.515, Florida Statutes, is amended to read:

316.515 Maximum width, height, length.—

(2) HEIGHT LIMITATION.—No vehicle may exceed a height of 13 feet 6 inches, inclusive of load carried thereon. However, an automobile transporter may~~, with a permit from the Department of Transportation,~~ measure a height not to exceed 14 feet, inclusive of the load carried thereon.

Section 13. Subsection (6) of section 316.535, Florida Statutes, is renumbered as subsection (7), present subsection (7) is renumbered as subsection (8) and amended, and a new subsection (6) is added to said section to read:

316.535 Maximum weights.—

(6) Dump trucks, concrete mixing trucks, trucks engaged in waste collection and disposal, and fuel oil and gasoline trucks designed and constructed for special type work or use, when operated as a single unit, shall be subject to all safety and operational requirements of law, except that any such vehicle need not conform to the axle spacing requirements of this section provided that such vehicle shall be limited to a total gross load, including the weight of the vehicle, of 20,000 pounds per axle plus scale tolerances and shall not exceed 550 pounds per inch width tire surface plus scale tolerances. No vehicle operating pursuant to this section shall exceed a gross weight, including the weight of the vehicle and scale tolerances, of 70,000 pounds. Any vehicle violating the weight provisions of this section shall be penalized as provided in s. 316.545.

(7)~~(6)~~ The Department of Transportation shall adopt rules to implement this section, shall enforce this section and the rules adopted hereunder, and shall publish and distribute tables and other publications as deemed necessary to inform the public.

(8)~~(7)~~ Except as hereinafter provided, no vehicle or combination of vehicles exceeding the gross weights specified in subsections (3), (4), ~~and~~ (5)*, and (6)* shall be permitted to travel on the public highways within the state.

Section 14. Paragraph (a) of subsection (2) of section 316.545, Florida Statutes, is amended to read:

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

(2)(a) Whenever an officer, upon weighing a vehicle or combination of vehicles with load, determines that the axle weight or gross weight is unlawful, the officer may require the driver to stop the vehicle in a suitable place and remain standing until a determination can be made as to the amount of weight thereon and, if overloaded, the amount of penalty to be assessed as provided herein. However, any gross weight over and beyond 6,000 pounds beyond the maximum herein set shall be unloaded and all material so unloaded shall be cared for by the owner or operator of the vehicle at the risk of such owner or operator. Except as otherwise provided in this chapter, to facilitate compliance with and enforcement of the weight limits established in s. 316.535, weight tables published pursuant to s. 316.535*(7)* ~~(6)~~ shall include a 10-percent scale tolerance and shall thereby reflect the maximum scaled weights allowed any vehicle or combination of vehicles. As used in this section, scale tolerance means the allowable deviation from legal weights established in s. 316.535. Notwithstanding any other provision of the weight law, if a vehicle or combination of vehicles does not exceed the gross, external bridge, or internal bridge weight limits imposed in s. 316.535 and the driver of such vehicle or combination of vehicles can comply with the requirements of this chapter by shifting or equalizing the load on all wheels or axles and does so when requested by the proper authority, the driver shall not be held to be operating in violation of said weight limits.

Section 15. Section 330.27, Florida Statutes, is amended to read:

330.27 Definitions, when used in ss. 330.29-330.36, 330.38, 330.39.—

(1) "Aircraft" means *a powered or unpowered machine or device capable of atmosphere flight* ~~any motor vehicle or contrivance now known, or hereafter invented, which is used or designed for navigation of or flight in the air~~, except a parachute or other *such device* ~~contrivance designed for such navigation but~~ used primarily as safety equipment.

(2) "Airport" means *an* ~~any~~ area of land or water~~, or any manmade object or facility located thereon, which is~~ used *for*, or intended *to be used* for*,* ~~use, for the~~ landing and takeoff of aircraft, *including* ~~and any~~ appurtenant areas*,* ~~which are used, or intended for use, for airport~~ buildings*,* ~~or other airport~~ facilities*,* or rights-of-way *necessary to facilitate such use or intended use*~~, together with all airport buildings and facilities located thereon~~.

~~(3) "Airport hazard" means any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or which is otherwise hazardous to such landing or taking off.~~

~~(4) "Aviation" means the science and art of flight and includes, but is not limited to, transportation by aircraft; the operation, construction,~~

~~repair, or maintenance of aircraft, aircraft power plants, and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.~~

(3)~~(5)~~ "Department" means the Department of Transportation.

(4)~~(6)~~ "Limited airport" means *any* ~~an~~ airport~~, publicly or privately owned,~~ limited exclusively to the specific conditions stated on the site approval order or license.

~~(7) "Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the airspace over this state or upon any airport within this state.~~

~~(8) "Political subdivision" means any county, municipality, district, port or aviation commission or authority, or similar entity authorized to establish or operate an airport in this state.~~

(5)~~(9)~~ "Private airport" means an airport, publicly or privately owned, which is *not open or available for use by the public. A private airport is registered with the department for use of the person or persons registering the facility* ~~used primarily by the licensee~~ but *may be made* ~~which is~~ available *to others* ~~for use~~ by invitation of the *registrant* ~~licensee~~. ~~Services may be provided if authorized by the department.~~

(6)~~(10)~~ "Public airport" means an airport, publicly or privately owned, which ~~meets minimum safety and service standards and~~ is open for use by the public *as listed in the current United States Government Flight Information Publication, Airport Facility Directory. A public airport is licensed by the department as meeting minimum safety standards*.

(7)~~(11)~~ "Temporary airport" means *any* ~~an~~ airport~~, publicly or privately owned,~~ that will be used for a period of less than *30* ~~90~~ days with no more than 10 operations per day.

(8)~~(12)~~ "Ultralight aircraft" means any ~~heavier-than-air, motorized~~ aircraft *meeting* ~~which meets~~ the criteria ~~for maximum weight, fuel capacity, and airspeed~~ established ~~for such aircraft~~ by the Federal Aviation *Regulation* ~~Administration under~~ Part 103 ~~of the Federal Aviation Regulations~~.

Section 16. Section 330.29, Florida Statutes, is amended to read:

330.29 Administration and enforcement; rules; standards for airport sites and airports.—It is the duty of the department to:

(1) Administer and enforce the provisions of this chapter.

(2) Establish minimum standards for airport sites and airports under its licensing *and registration* jurisdiction.

(3) Establish and maintain a state aviation data system to facilitate licensing and registration of all airports.

(4)~~(3)~~ Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter.

Section 17. Section 330.30, Florida Statutes, is amended to read:

330.30 Approval of airport sites and licensing of airports~~; fees~~.—

(1) SITE APPROVALS; REQUIREMENTS, ~~FEES,~~ EFFECTIVE PERIOD, REVOCATION.—

(a) Except as provided in subsection (3), the owner or lessee of any proposed airport shall, prior to *site* ~~the~~ acquisition ~~of the site~~ or ~~prior to the~~ construction or establishment of the proposed airport, obtain approval of the airport site from the department. Applications for approval of a site ~~and for an original license~~ shall be ~~jointly~~ made on a form prescribed by the department ~~and shall be accompanied by a site approval fee of $100~~. The department~~, after inspection of the airport site,~~ shall grant the site approval if it is satisfied:

1. That the site is *suitable* ~~adequate~~ for the *airport as* proposed ~~airport~~;

2. That the *airport as* proposed ~~airport, if constructed or established,~~ will conform to minimum standards ~~of safety~~ and will comply with *the* applicable *local government land development regulation or* ~~county or municipal~~ zoning requirements;

3. That all nearby airports, *local governments* ~~municipalities~~, and property owners have been notified and any comments submitted by them have been given adequate consideration; and

4. That safe air-traffic patterns can be *established* ~~worked out~~ for the proposed airport *with* ~~and for~~ all existing airports and approved airport sites in its vicinity.

(b) Site approval shall be granted for public airports only after a favorable department inspection of the proposed site.

(c) Site approval shall be granted for private airports only after receipt of documentation the department deems necessary to satisfy the conditions in paragraph (a).

(d)~~(b)~~ Site approval may be granted subject to any reasonable conditions ~~which~~ the department *deems* ~~may deem~~ necessary to protect the public health, safety, or welfare.

(e) ~~Such~~ Approval shall remain *valid* ~~in effect~~ for ~~a period of~~ 2 years after the date of *issue* ~~issuance of the site approval order~~, unless ~~sooner~~ revoked by the department or ~~unless, prior to the expiration of the 2-year period,~~ a *public airport* license *is issued or private airport registration granted* ~~for an airport located on the approved site has been issued~~ pursuant to subsection (2) *prior to the expiration date*.

(f) The department may extend a site approval ~~may be extended~~ for *up to* ~~a maximum of~~ 2 years *for* ~~upon~~ good cause ~~shown by the owner or lessee of the airport site~~.

(g)~~(c)~~ The department may revoke *a site* ~~such~~ approval if it determines:

1. That ~~there has been an abandonment of~~ the site *has been abandoned* as an airport ~~site~~;

2. That ~~there has been a failure within a reasonable time to develop~~ the site *has not been developed* as an airport *within a reasonable time period* or *development does not* ~~to~~ comply with the conditions of the *site* approval;

3. That *except as required for in-flight emergencies* ~~the operation of~~ aircraft *have operated* ~~of a nonemergency nature has occurred~~ on the site; or

4. That~~, because of changed physical or legal conditions or circumstances,~~ the site is no longer usable for ~~the~~ aviation purposes *due to physical or legal changes in conditions that were the subject of* ~~for which the~~ approval ~~was granted~~.

(2) LICENSES *AND REGISTRATIONS*; REQUIREMENTS, ~~FEES,~~ RENEWAL, REVOCATION.—

(a) Except as provided in subsection (3), the owner or lessee of *any* ~~an~~ airport in this state must *have either a public airport* ~~obtain a~~ license *or private airport registration* prior to the operation of aircraft *to or from the facility* ~~on the airport~~. ~~An~~ Application for *a* ~~such~~ license *or registration* shall be made on a form prescribed by the department ~~and shall be accomplished jointly with an application for site approval~~. Upon granting site approval~~, making a favorable final airport inspection report indicating compliance with all license requirements, and receiving the appropriate license fee, the department shall issue a license to the applicant, subject to any reasonable conditions that the department may deem necessary to protect the public health, safety, or welfare.~~

1. For a public airport, the department shall issue a license after a final airport inspection finds the facility to be in compliance with all requirements for the license. The license may be subject to any reasonable conditions that the department may deem necessary to protect the public health, safety, or welfare.

2. For a private airport, the department shall provide controlled electronic access to the state aviation facility data system to permit the applicant to complete the registration process. Registration shall be completed upon self-certification by the registrant of operational and configuration data deemed necessary by the department.

(b) The department is authorized to license *a public* ~~an~~ airport that does not meet all of the minimum standards only if it determines that such exception is justified by unusual circumstances or is in the interest of public convenience and does not endanger the public health, safety, or welfare. Such a license shall bear the designation "special" and shall state the conditions subject to which the license is granted.

(c) The department may authorize a site *to be used* as a temporary airport if it finds, after inspection of the site, that the airport will not endanger the public health, safety, or welfare. *A temporary airport will not require a license or registration.* ~~Such~~ Authorization *to use a site for a temporary airport will be valid for* ~~shall expire~~ not *more* ~~later~~ than *30* ~~90~~ days ~~after issuance~~ and is not renewable.

~~(d) The license fees for the four categories of airport licenses are:~~

~~1. Public airport: $100.~~

~~2. Private airport: $70.~~

~~3. Limited airport: $50.~~

~~4. Temporary airport: $25.~~

~~Airports owned or operated by the state, a county, or a municipality and emergency helistops operated by licensed hospitals are required to be licensed but are exempt from the payment of site approval fees and annual license fees.~~

(d)~~(e)~~1. Each public airport license will expire no later than 1 year after the effective date of the license, except that the expiration date of a license may be adjusted to provide a maximum license period of 18 months to facilitate airport inspections, recognize seasonal airport operations, or improve administrative efficiency. ~~If the expiration date for a public airport is adjusted, the appropriate license fee shall be determined by prorating the annual fee based on the length of the adjusted license period.~~

2. *Registration* ~~The license period~~ for *private* ~~all~~ airports ~~other than public airports~~ will *remain valid provided specific elements of airport data, established by the department, are periodically recertified by the airport registrant. The ability to recertify private airport registration data shall be available at all times by electronic submittal. Recertification shall be required each 12 months. A private airport registration that has not been recertified in the 12-month period following the last certification shall expire. The expiration date of the current registration period will be clearly identifiable from the state aviation facility data system.* ~~be set by the department, but shall not exceed a period of 5 years. In determining the license period for such airports, the department shall consider the number of based aircraft, the airport location relative to adjacent land uses and other airports, and any other factors deemed by the department to be critical to airport operation and safety.~~

3. The effective date and expiration date shall be *shown on public airport licenses* ~~stated on the face of the license~~. Upon receiving an application for renewal of a *public airport* license on a form prescribed by the department *and*~~,~~ making a favorable inspection report indicating compliance with all applicable requirements and conditions~~, and receiving the appropriate annual license fee~~, the department shall renew the license, subject to any conditions deemed necessary to protect the public health, safety, or welfare.

4. The department may require *a new* site approval for *any* ~~an~~ airport if the license *or registration* ~~of the airport~~ has *expired* ~~not been renewed by the expiration date~~.

5. If the renewal application *for a public airport license has* ~~and fees have~~ not been received by the department *or no private airport registration recertification has been accomplished* within 15 days after the date of expiration ~~of the license~~, the department may close the airport.

(e)~~(f)~~ The department may revoke any *airport registration,* license*,* or *license* renewal ~~thereof~~, or refuse to *allow registration or* issue a *registration or license* renewal, if it determines:

1. That *the site* ~~there~~ has been *abandoned as an* ~~an abandonment of the~~ airport ~~as such~~;

2. That *the airport does not* ~~there has been a failure to~~ comply with the *registration, license, license renewal, or site* conditions ~~of the license or renewal thereof~~; or

3. That~~, because of changed physical or legal conditions or circumstances,~~ the airport has become either unsafe or unusable for *flight operation due to physical or legal changes in conditions that were the subject of approval* ~~the aeronautical purposes for which the license or renewal was issued~~.

(3) EXEMPTIONS.—The provisions of this section do not apply to:

(a) An airport owned or operated by the United States.

(b) An ultralight aircraft landing area~~; except that any public ultralight airport~~ located *more than* ~~within~~ 5 nautical miles *from a* ~~of another~~ public ~~airport~~ or military airport*, except* ~~or~~ any ultralight landing area with more than 10 ultralight aircraft operating from the site ~~is subject to the provisions of this section~~.

(c) A helistop used solely in conjunction with a construction project undertaken pursuant to the performance of a state contract if the purpose of the helicopter operations at the site is to expedite construction.

~~(d) An airport under the jurisdiction or control of a county or municipal aviation authority or a county or municipal port authority or the Spaceport Florida Authority; however, the department shall license any such airport if such authority does not elect to exercise its exemption under this subsection.~~

(d)~~(e)~~ A helistop used by mosquito control or emergency services, not to include areas where permanent facilities are installed, such as hospital landing sites.

(e)~~(f)~~ An airport which meets the criteria of s. 330.27(11) used exclusively for aerial application or spraying of crops on a seasonal basis, not to include any licensed airport where permanent crop aerial application or spraying facilities are installed, if the period of operation does not exceed 30 days per calendar year. Such proposed airports, which will be located within 3 miles of existing airports or approved airport sites, shall work out safe air-traffic patterns with such existing airports or approved airport sites, by memorandums of understanding, or by letters of agreement between the parties representing the airports or sites.

(4) EXCEPTIONS.—Private airports with ten or more based aircraft may request to be inspected and licensed by the department. Private airports licensed according to this subsection shall be considered private airports as defined in s. 330.27(5) in all other respects.

Section 18. Subsection (2) of section 330.35, Florida Statutes, is amended to read:

330.35 Airport zoning, ~~approach zone~~ protection.—

(2) Airports licensed for ~~general~~ public use under the provisions of s. 330.30 are eligible for *airport zoning* ~~approach zone~~ protection, ~~and the procedure shall be the same~~ as ~~is~~ prescribed in chapter 333.

Section 19. Subsection (2) of section 330.36, Florida Statutes, is amended to read:

330.36 Prohibition against county or municipal licensing of airports; regulation of seaplane landings.—

(2) A municipality may prohibit or otherwise regulate, for specified public health and safety purposes, the landing of seaplanes in and upon

any public waters of the state which are located within the limits or jurisdiction of, or bordering on, the municipality *upon adoption of zoning requirements in compliance with the provisions of subsection (1).*

Section 20. Subsection (4) of section 332.004, Florida Statutes, is amended to read:

332.004 Definitions of terms used in ss. 332.003-332.007.—As used in ss. 332.003-332.007, the term:

(4) "Airport or aviation development project" or "development project" means any activity associated with the design, construction, purchase, improvement, or repair of a public-use airport or portion thereof, including, but not limited to: the purchase of equipment; the acquisition of land, including land required as a condition of a federal, state, or local permit or agreement for environmental mitigation; *off-airport noise mitigation projects;* the removal, lowering, relocation, marking, and lighting of airport hazards; the installation of navigation aids used by aircraft in landing at or taking off from a public airport; the installation of safety equipment required by rule or regulation for certification of the airport under s. 612 of the Federal Aviation Act of 1958, and amendments thereto; and the improvement of access to the airport by road or rail system which is on airport property and which is consistent, to the maximum extent feasible, with the approved local government comprehensive plan of the units of local government in which the airport is located.

Section 21. Subsection (4) is added to section 333.06, Florida Statutes, to read:

333.06 Airport zoning requirements.—

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

Section 22. Subsection (5) and paragraph (b) of subsection (15) of section 334.044, Florida Statutes, are amended to read:

334.044 Department; powers and duties.—The department shall have the following general powers and duties:

(5) To purchase, lease, or otherwise acquire property and materials, including the purchase of promotional items as part of public information and education campaigns for the promotion of *scenic highways,* traffic and train safety awareness, alternatives to single-occupant vehicle travel, and commercial motor vehicle safety; to purchase, lease, or otherwise acquire equipment and supplies; and to sell, exchange, or otherwise dispose of any property that is no longer needed by the department.

(15) To regulate and prescribe conditions for the transfer of stormwater to the state right-of-way as a result of manmade changes to adjacent properties.

(b) The department is specifically authorized to adopt rules which set forth the purpose; necessary definitions; permit exceptions; permit and assurance requirements; permit application procedures; permit forms; general conditions for a drainage permit; provisions for suspension or revocation of a permit; and provisions for department recovery of fines, penalties, and costs incurred due to permittee actions. In order to avoid duplication and overlap with other units of government, the department shall accept a surface water management permit issued by a water management district, the Department of Environmental Protection, a surface water management permit issued by a delegated local government, or a permit issued pursuant to an approved Stormwater Management Plan or Master Drainage Plan; provided issuance is based on requirements equal to or more stringent than those of the department. *The department may enter into a permit delegation agreement with a governmental entity provided issuance is based on requirements that the department determines will ensure the safety and integrity of the Department of Transportation facilities.*

Section 23. Section 334.193, Florida Statutes, is amended to read:

334.193 Unlawful for certain persons to be financially interested in purchases, sales, and certain contracts; penalties.—

(1) It is unlawful for a state officer, or an employee or agent of the department, or for any company, corporation, or firm in which a state officer, or an employee or agent of the department has a financial interest, to bid on, enter into, or be personally interested in:

(a) The purchase or the furnishing of any materials or supplies to be used in the work of the state.

(b) A contract for the construction of any state road, the sale of any property, or the performance of any other work for which the department is responsible.

(2) *Notwithstanding the provisions of subsection (1):*

(a) The department may consider competitive bids or proposals by employees or employee work groups who have a financial interest in matters referenced in paragraphs (1)(a) and (b) when the subject matter of a request for bids or proposals by the department includes functions performed by the employees or employee work groups of the department before the request for bids or proposals. However, if the employees, employee work groups, or entity in which an employee of the department has an interest is the successful bidder or proposer, such employee or employees must resign from department employment upon executing an agreement to perform the matter bid upon.

(b) The department may consider competitive bids or proposals of employees or employee work groups submitted on behalf of the department to perform the subject matter of requests for bids or proposals. The department may select such bid or proposal for performance of the work by the department.

The department may update existing rules or adopt new rules pertaining to employee usage of department equipment, facilities, and supplies during business hours for nondepartment activities in order to implement this subsection.

(3) Any person who is convicted of a violation of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and shall be removed from his or her office or employment.

Section 24. Section 334.30, Florida Statutes, is amended to read:

334.30 *Public-private* ~~Private~~ transportation facilities.—The Legislature hereby finds and declares that there is a public need for rapid construction of safe and efficient transportation facilities for the purpose of travel within the state, and that it is in the public's interest to provide for *public-private partnership agreements to effectuate* the construction of additional safe, convenient, and economical transportation facilities.

(1) The department may receive or solicit proposals and~~, with legislative approval by a separate bill for each facility,~~ enter into agreements with private entities, or consortia thereof, for the building, operation, ownership, or financing of transportation facilities. The department *is authorized to adopt rules to implement this section and* shall by rule establish an application fee for the submission of proposals under this section. The fee must be sufficient to pay the costs of evaluating the proposals. The department may engage the services of private consultants to assist in the evaluation. Before ~~seeking legislative~~ approval, the department must determine that the proposed project:

(a) Is in the public's best interest.~~;~~

(b) Would not require state funds to be used unless there is an overriding state interest. *However, the department may use state resources for a transportation facility project that is on the State Highway System or that provides for increased mobility on the state's transportation system.*~~; and~~

(c) Would have adequate safeguards in place to ensure that no additional costs or service disruptions would be realized by the traveling public and citizens of the state in the event of default or cancellation of the agreement by the department.

The department shall ensure that all reasonable costs to the state and substantially affected local governments and utilities, related to the private transportation facility, are borne by the private entity.

(2) The use of funds from the State Transportation Trust Fund is limited to advancing projects already programmed in the adopted 5-year work program or to no more than a statewide total of $50 million in capital costs for all projects not programmed in the adopted 5-year work program.

(3) The department may request proposals for public-private transportation proposals or, if the department receives a proposal, shall publish a notice in the Florida Administrative Weekly and a newspaper of general circulation at least once a week for 2 weeks, stating that the department has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected area.

(4) The department shall not commit funds in excess of the limitation in subsection (2) without specific project approval by the legislature.

(5)~~(2)~~ Agreements entered into pursuant to this section may authorize the private entity to impose tolls or fares for the use of the facility. However, the amount and use of toll or fare revenues may be regulated by the department to avoid unreasonable costs to users of the facility.

(6)~~(3)~~ Each ~~private~~ transportation facility constructed pursuant to this section shall comply with all requirements of federal, state, and local laws; state, regional, and local comprehensive plans; department rules, policies, procedures, and standards for transportation facilities; and any other conditions which the department determines to be in the public's best interest.

(7)~~(4)~~ The department may exercise any power possessed by it, including eminent domain, with respect to the development and construction of state transportation projects to facilitate the development and construction of transportation projects pursuant to this section. *For public-private facilities located on the State Highway System, the department may pay all or part of the cost of operating and maintaining the facility. For facilities not located on the State Highway System,* the department may provide services to the private entity *and*~~.~~ agreements for maintenance, law enforcement, and other services ~~entered into pursuant to this section~~ shall provide for full reimbursement for services rendered.

(8)~~(5)~~ Except as herein provided, the provisions of this section are not intended to amend existing laws by granting additional powers to, or further restricting, local governmental entities from regulating and entering into cooperative arrangements with the private sector for the planning, construction, and operation of transportation facilities.

(9) The department shall have the authority to create, or assist in the creation of, tax-exempt, public-purpose chapter 63-20 corporations as provided for under the Internal Revenue Code, for the purpose of shielding the state from possible financing risks for projects under this section. Chapter 63-20 corporations may receive State Transportation Trust Fund grants from the department. The department shall be empowered to enter into public-private partnership agreements with chapter 63-20 corporations for projects under this section.

(10) The department may lend funds from the Toll Facilities Revolving Trust Fund, as outlined in s. 338.251, to chapter 63-20 corporations that propose projects containing toll facilities. To be eligible, the chapter 63-20 corporation must meet the provisions of s. 338.251 and must also provide credit support, such as a letter of credit or other means acceptable to the department, to ensure the loans will be repaid as required by law.

(11)~~(6)~~ Notwithstanding s. 341.327, a fixed-guideway transportation system authorized by the department to be wholly or partially within the department's right-of-way pursuant to a lease granted under s. 337.251 may operate at any safe speed.

Section 25. Section 335.066, Florida Statutes, is created to read:

335.066 Safe Paths to Schools Program.—

(1) There is hereby established within the Department of Transportation the Safe Paths to Schools Program to consider the planning and construction of bicycle and pedestrian ways to provide safe transportation for children from neighborhoods to schools, parks, and the state's greenways and trails system.

(2) As part of the Safe Paths to Schools Program, the department may establish a grant program to fund local, regional, and state bicycle and pedestrian projects that support the program.

(3) The department may adopt appropriate rules for the administration of the Safe Paths to Schools Program.

Section 26. Subsections (3), (4), and (5) of section 335.141, Florida Statutes, are amended to read:

335.141 Regulation of public railroad-highway grade crossings; reduction of hazards.—

(3) ~~The department is authorized to regulate the speed limits of railroad traffic on a municipal, county, regional, or statewide basis. Such speed limits shall be established by order of the department, which order is subject to the provisions of chapter 120. The department shall have the authority to adopt reasonable rules to carry out the provisions of this subsection. Such rules shall, at a minimum, provide for public input prior to the issuance of any such order.~~

~~(4) Jurisdiction to enforce such orders shall be as provided in s. 316.640, and any penalty for violation thereof shall be imposed upon the railroad company guilty of such violation.~~ Nothing herein shall prevent a local governmental entity from enacting ordinances relating to the blocking of streets by railroad engines and cars.

(4)~~(5)~~ Any local governmental entity or other public or private agency planning a public event, such as a parade or race, that involves the crossing of a railroad track shall notify the railroad as far in advance of the event as possible and in no case less than 72 hours in advance of the event so that the coordination of the crossing may be arranged by the agency and railroad to assure the safety of the railroad trains and the participants in the event.

Section 27. Subsection (4) is added to section 336.41, Florida Statutes, to read:

336.41 Counties; employing labor and providing road equipment; definitions.—

(4)(a) For contracts in excess of $250,000, any county may require that persons interested in performing work under the contract first be certified or qualified to do the work. Any contractor prequalified and considered eligible to bid by the department to perform the type of work described under the contract shall be presumed to be qualified to perform the work so described. Any contractor may be considered ineligible to bid by the county if the contractor is behind an approved progress schedule by 10 percent or more on another project for that county at the time of the advertisement of the work. The county may provide an appeal process to overcome such consideration with de novo review based on the record below to the circuit court.

(b) The county shall publish prequalification criteria and procedures prior to advertisement or notice of solicitation. Such publications shall include notice of a public hearing for comment on such criteria and procedures prior to adoption. The procedures shall provide for an appeal process within the county for objections to the prequalification process with de novo review based on the record below to the circuit court.

(c) The county shall also publish for comment, prior to adoption, the selection criteria and procedures to be used by the county if such procedures would allow selection of other than the lowest responsible bidder. The selection criteria shall include an appeal process within the county with de novo review based on the record below to the circuit court.

Section 28. Subsection (2) of section 336.44, Florida Statutes, is amended to read:

336.44 Counties; contracts for construction of roads; procedure; contractor's bond.—

(2) Such contracts shall be let to the lowest *responsible* ~~competent~~ bidder, after publication of notice for bids containing specifications furnished by the commissioners in a newspaper published in the county where such contract is made, at least once each week for 2 consecutive weeks prior to the making of such contract.

Section 29. Section 337.107, Florida Statutes, is amended to read:

337.107 Contracts for right-of-way services.—The department may enter into contracts pursuant to s. 287.055 *or s. 337.025* for right-of-way services on transportation corridors and transportation facilities *or the department may include right-of-way services as part of design-build contracts awarded pursuant to s. 337.11.* Right-of-way services include negotiation and acquisition services, appraisal services, demolition and removal of improvements, and asbestos-abatement services.

Section 30. Paragraph (c) of subsection (6) and paragraph (a) of subsection (7) of section 337.11, Florida Statutes, are amended to read:

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

(6)

(c) When the department determines that it is in the best interest of the public for reasons of public concern, economy, improved operations or safety, and only when circumstances dictate rapid completion of the work, the department may, up to the ~~threshold~~ amount *of $120,000* ~~provided in s. 287.017 for CATEGORY FOUR~~, enter into contracts for construction and maintenance without advertising and receiving competitive bids. ~~However, if legislation is enacted by the Legislature which changes the category thresholds, the threshold amount shall remain at $60,000.~~ The department may enter into such contracts only upon a determination that the work is necessary for one of the following reasons:

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

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

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

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

(7)(a) If the head of the department determines that it is in the best interests of the public, the department may combine the design and construction phases of a building, a major bridge, *an enhancement project,* or a rail corridor project into a single contract. Such contract is referred to as a design-build contract. *Design-build contracts may be advertised and awarded notwithstanding the requirements of paragraph (c) of subsection (3). However, construction activities may not begin on any portion of such projects until title to the necessary rights-of-way and easements for the construction of such portion of the project has vested in the state or a local governmental entity and all railroad crossing and utility agreements have been executed. Title to rights-of-way vests in the state when the title has been dedicated to the public or acquired by prescription.*

Section 31. Subsection (4) of section 337.14, Florida Statutes, is amended, and subsection (9) is added to said section, to read:

337.14 Application for qualification; certificate of qualification; restrictions; request for hearing.—

(4) If the applicant is found to possess the prescribed qualifications, the department shall issue to him or her a certificate of qualification *that* ~~which~~, unless thereafter revoked by the department for good cause, will be valid for a period of *18* ~~16~~ months *after* ~~from~~ the date of the applicant's financial statement or such shorter period as the department *prescribes* ~~may prescribe~~. *If* ~~In the event~~ the department finds that an application is incomplete or contains inadequate information or information *that* ~~which~~ cannot be verified, the department may request in writing that the applicant provide the necessary information to complete the application or provide the source from which any information in the application may be verified. If the applicant fails to comply with the initial written request within a reasonable period of time as specified therein, the department shall request the information a second time. If the applicant fails to comply with the second request within a reasonable period of time as specified therein, the application shall be denied.

(9)(a) Notwithstanding any other law to the contrary, for contracts in excess of $250,000, an authority created pursuant to chapter 348 or chapter 349 may require that persons interested in performing work under contract first be certified or qualified to do the work. Any contractor may be considered ineligible to bid by the governmental entity or authority if the contractor is behind an approved progress schedule for the governmental entity or authority by 10 percent or more at the time of advertisement of the work. Any contractor prequalified and considered eligible by the department to bid to perform the type of work described under the contract shall be presumed to be qualified to perform the work so described. The governmental entity or authority may provide an appeal process to overcome that presumption with de novo review based on the record below to the circuit court.

(b) With respect to contractors not prequalified with the department, the authority shall publish prequalification criteria and procedures prior to advertisement or notice of solicitation. Such publications shall include notice of a public hearing for comment on such criteria and procedures prior to adoption. The procedures shall provide for an appeal process within the authority for objections to the prequalification process with de novo review based on the record below to the circuit court within 30 days.

(c) An authority may establish criteria and procedures whereunder contractor selection may occur on a basis other than the lowest responsible bidder. Prior to adoption, the authority shall publish for comment the proposed criteria and procedures. Review of the adopted criteria and procedures shall be to the circuit court, within 30 days after adoption, with de novo review based on the record below.

Section 32. Subsection (2) of section 337.401, Florida Statutes, is amended to read:

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

(2) The authority may grant to any person who is a resident of this state, or to any corporation which is organized under the laws of this state or licensed to do business within this state, the use of a right-of-way for the utility in accordance with such rules or regulations as the authority may adopt. No utility shall be installed, located, or relocated

unless authorized by a written permit issued by the authority. *However, for public roads or publicly owned rail corridors under the jurisdiction of the department, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit.* The permit shall require the permitholder to be responsible for any damage resulting from the issuance of such permit. The authority may initiate injunctive proceedings as provided in s. 120.69 to enforce provisions of this subsection or any rule or order issued or entered into pursuant thereto.

Section 33. Subsections (1) and (2) of section 339.08, Florida Statutes, are amended to read:

339.08 Use of moneys in State Transportation Trust Fund.—

(1) The department shall *expend* ~~by rule provide for the expenditure of the~~ moneys in the State Transportation Trust Fund accruing to the department, in accordance with its annual budget.

(2) ~~These rules must restrict~~ The use of such moneys *shall be restricted* to the following purposes:

(a) To pay administrative expenses of the department, including administrative expenses incurred by the several state transportation districts, but excluding administrative expenses of commuter rail authorities that do not operate rail service.

(b) To pay the cost of construction of the State Highway System.

(c) To pay the cost of maintaining the State Highway System.

(d) To pay the cost of public transportation projects in accordance with chapter 341 and ss. 332.003-332.007.

(e) To reimburse counties or municipalities for expenditures made on projects in the State Highway System as authorized by s. 339.12(4) upon legislative approval.

(f) To pay the cost of economic development transportation projects in accordance with s. 288.063.

(g) To lend or pay a portion of the operating, maintenance, and capital costs of a revenue-producing transportation project that is located on the State Highway System or that is demonstrated to relieve traffic congestion on the State Highway System.

(h) To match any federal-aid funds allocated for any other transportation purpose, including funds allocated to projects not located in the State Highway System.

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

(j) To pay the cost of county or municipal road projects selected in accordance with the County Incentive Grant Program created in s. 339.2817 and the Small County Outreach Program created in s. 339.2818.

(k) To provide loans and credit enhancements for use in constructing and improving highway transportation facilities selected in accordance with the state-funded infrastructure bank created in s. 339.55.

(l) To fund the Transportation Outreach Program created in s. 339.137.

(m) To pay other lawful expenditures of the department.

Section 34. Paragraph (c) of subsection (4) and subsection (5) of section 339.12, Florida Statutes, are amended, to read:

339.12 Aid and contributions by governmental entities for department projects; federal aid.—

(4)

(c) The department may enter into agreements under this subsection for a project or project phase not included in the adopted work program. As used in this paragraph, the term "project phase" means acquisition of rights-of-way, construction, construction inspection, and related support phases. The project or project phase must be a high priority of the governmental entity. Reimbursement for a project or project phase must be made from funds appropriated by the Legislature pursuant to s. 339.135(5). All other provisions of this subsection apply to agreements entered into under this paragraph. The total amount of project agreements for projects or project phases not included in the adopted work program may not at any time exceed *$150* ~~$100~~ million.

(5) The department and the governing body of a governmental entity may enter into an agreement by which the governmental entity agrees to perform a highway project or project phase in the department's adopted work program that is not revenue producing or any public transportation project in the adopted work program. By specific provision in the written agreement between the department and the governing body of the governmental entity, the department may agree to *compensate* ~~reimburse~~ the governmental entity the actual cost *of* ~~for~~ the project or project phase contained in the adopted work program. *Compensation* ~~Reimbursement~~ to the governmental entity for such project or project phases must be made from funds appropriated by the Legislature, and *compensation* ~~reimbursement~~ for the cost of the project or project phase is to begin in the year the project or project phase is scheduled in the work program as of the date of the agreement.

Section 35. Paragraphs (a), (b), (f), and (g) of subsection (4) of section 339.135, Florida Statutes, are amended to read:

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

(4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

(a)1. To assure that no district or county is penalized for local efforts to improve the State Highway System, the department shall, for the purpose of developing a tentative work program, allocate funds for new construction to the districts, except for the turnpike *enterprise* ~~district~~, based on equal parts of population and motor fuel tax collections. Funds for resurfacing, bridge repair and rehabilitation, bridge fender system construction or repair, public transit projects except public transit block grants as provided in s. 341.052, and other programs with quantitative needs assessments shall be allocated based on the results of these assessments. The department may not transfer any funds allocated to a district under this paragraph to any other district except as provided in subsection (7). Funds for public transit block grants shall be allocated to the districts pursuant to s. 341.052.

2. Notwithstanding the provisions of subparagraph 1., the department shall allocate at least 50 percent of any new discretionary highway capacity funds to the Florida Intrastate Highway System established pursuant to s. 338.001. Any remaining new discretionary highway capacity funds shall be allocated to the districts for new construction as provided in subparagraph 1. For the purposes of this subparagraph, the term "new discretionary highway capacity funds" means any funds available to the department above the prior year funding level for capacity improvements, which the department has the discretion to allocate to highway projects.

(b)1. A tentative work program, including the ensuing fiscal year and the successive 4 fiscal years, shall be prepared for the State Transportation Trust Fund and other funds managed by the department, unless otherwise provided by law. The tentative work program shall be based on the district work programs and shall set forth all projects by phase to be undertaken during the ensuing fiscal year and planned for the successive 4 fiscal years. The total amount of the liabilities accruing in each fiscal year of the tentative work program may not exceed the revenues available for expenditure during the respective fiscal year based on the cash forecast for that respective fiscal year.

2. The tentative work program shall be developed in accordance with the Florida Transportation Plan required in s. 339.155 and must comply with the program funding levels contained in the program and resource plan.

3. The department may include in the tentative work program proposed changes to the programs contained in the previous work

program adopted pursuant to subsection (5); however, the department shall minimize changes and adjustments that affect the scheduling of project phases in the 4 common fiscal years contained in the previous adopted work program and the tentative work program. The department, in the development of the tentative work program, shall advance by 1 fiscal year all projects included in the second year of the previous year's adopted work program, unless the secretary specifically determines that it is necessary, for specific reasons, to reschedule or delete one or more projects from that year. Such changes and adjustments shall be clearly identified, and the effect on the 4 common fiscal years contained in the previous adopted work program and the tentative work program shall be shown. It is the intent of the Legislature that the first *5 years of the adopted work program for facilities designated as part of the Florida Intrastate Highway System and the first* 3 years of the adopted work program stand as the commitment of the state to undertake transportation projects that local governments may rely on for planning purposes and in the development and amendment of the capital improvements elements of their local government comprehensive plans. (f) The central office shall submit a preliminary copy of the tentative work program to the Executive Office of the Governor, the legislative appropriations committees, the Florida Transportation Commission, and the Department of Community Affairs at least 14 days prior to the convening of the regular legislative session. Prior to the statewide public hearing required by paragraph (g), the Department of Community Affairs shall transmit to the Florida Transportation Commission a list of those projects and project phases contained in the tentative work program which are identified as being inconsistent with approved local government comprehensive plans. For urbanized areas of metropolitan planning organizations, the list may not contain any project or project phase that is scheduled in a transportation improvement program unless such inconsistency has been previously reported to the affected metropolitan planning organization. ~~The commission shall consider the list as part of its evaluation of the tentative work program conducted pursuant to s. 20.23.~~

(g) The Florida Transportation Commission shall conduct a statewide public hearing on the tentative work program and shall advertise the time, place, and purpose of the hearing in the Florida Administrative Weekly at least 7 days prior to the hearing. As part of the statewide public hearing, the commission shall, at a minimum:

1. Conduct an in-depth evaluation of the tentative work program ~~as required in s. 20.23~~ for compliance with applicable laws and departmental policies; and

2. Hear all questions, suggestions, or other comments offered by the public.

By no later than 14 days after the regular legislative session begins, the commission shall submit to the Executive Office of the Governor and the legislative appropriations committees a report that evaluates the tentative work program for:

a. Financial soundness;

b. Stability;

c. Production capacity;

d. Accomplishments, including compliance with program objectives in s. 334.046;

e. Compliance with approved local government comprehensive plans;

f. Objections and requests by metropolitan planning organizations;

g. Policy changes and effects thereof;

h. Identification of statewide or regional projects; and

i. Compliance with all other applicable laws.

Section 36. Section 339.137, Florida Statutes, is amended to read:

339.137 Transportation Outreach Program (TOP) supporting economic development; administration; definitions; eligible projects; Transportation Outreach Program (TOP) advisory council created; limitations; funding.—

(1) There is created within the Department of Transportation, a Transportation Outreach Program (TOP) dedicated to funding transportation projects of a high priority based on the ~~prevailing~~ principles of ~~preserving the existing transportation infrastructure;~~ enhancing Florida's economic growth and competitiveness *in national and international markets; promoting intermodal transportation linkages for passengers and freight*; and improving travel choices to ensure *efficient and cost-competitive* mobility *for Florida citizens, visitors, services, and goods*.

(2) For purposes of this section, words and phrases shall have the following meanings:

(a) ~~Preservation. Protecting the state's transportation infrastructure investment. Preservation includes:~~

~~1. Ensuring that 80 percent of the pavement on the State Highway System meets department standards;~~

~~2. Ensuring that 90 percent of department-maintained bridges meet department standards; and~~

~~3. Ensuring that the department achieves 100 percent of acceptable maintenance standards on the State Highway System.~~

~~(b)~~ Economic growth and competitiveness.—Ensuring that state transportation investments promote economic activities which result in development or retention of income generative industries which increase per capita earned income in the state, and that such investments improve the state's economic competitiveness.

(b)~~(c)~~ Mobility.—Ensuring a cost-effective, statewide, interconnected transportation system.

(c)~~(d) The term~~ "Regionally significant transportation project.— ~~of critical concern" means~~ A transportation facility improvement project located in one *or more counties* ~~county~~ which provides significant enhancement of economic development opportunities in *that region* ~~an adjoining county or counties and which provides improvements to a hurricane evacuation route~~.

(3) Transportation Outreach Program projects may be proposed by any local government, regional organization, economic development board, public or private partnership, metropolitan planning organization, state agency, or other entity engaged in economic development activities.

(4)~~(3)~~ *Proposed* ~~Eligible~~ projects *that meet the minimum eligibility threshold* include those for planning, designing, acquiring rights-of-way for, or constructing the following:

(a) Major highway improvements *to:*~~.~~

1. *The* Florida Intrastate Highway System.

2. *Major roads and* feeder roads which provide linkages to *the Florida Intrastate Highway System* ~~major highways~~.

3. Bridges of statewide or regional significance.

4. Trade and economic development corridors.

5. Access projects for freight and passengers.

~~6. Hurricane evacuation routes.~~

(b) Major public transportation projects:~~.~~

1. Seaport projects which improve cargo and passenger movements *or connect the seaports to other modes of transportation*.

2. Aviation projects which increase passenger enplanements and cargo activity *or connect the airports to other modes of transportation*.

3. Transit projects which improve mobility on interstate highways, ~~or which~~ improve regional or localized travel*, or connect to other modes of transportation*.

4. Rail projects that facilitate the movement of passengers and cargo*,* including ancillary pedestrian facilities*, or connect rail facilities to other modes of transportation*.

5. Spaceport Florida Authority projects which improve space transportation capacity and facilities consistent with the provisions of s. 331.360.

~~6. Bicycle and pedestrian facilities that add to or enhance a statewide system of public trails.~~

(c) Highway and bridge projects that facilitate retention and expansion of military installations, or that facilitate reuse and development of any military base designated for closure by the Federal Government.

Each proposed project must be able to document that it promotes economic growth and competitiveness, as defined in paragraph (2)(a).

(5) In addition to the above minimum eligibility requirements, each proposed project must comply with the following eligibility criteria:

(a) The project or project phase selected can be made production-ready within a 5-year period following the end of the current fiscal year.

(b) The project is consistent with a current transportation system plan such as the Florida Intrastate Highway System, aviation, intermodal/rail, seaport, spaceport, or transit system plans.

(c) The project is not inconsistent with an approved local comprehensive plan of any local government within whose boundaries the project is located in whole or in part, or, if inconsistent, is accompanied by an explanation of why the project should be undertaken.

(d) The project involves two or more modes of transportation or can document that it will have a significant economic benefit in two or more counties.

One or more of the minimum criteria listed in paragraphs (a)-(d) may be waived for a regionally significant transportation project.

~~(4) Transportation Outreach projects may be proposed by any local government, regional organization, economic development board, public or private partnership, metropolitan planning organization, state agency, or other entity engaged in economic development activities.~~

(6)~~(5)~~ *The following criteria shall be used* ~~Transportation funding under this section shall use the following mechanisms~~ to prioritize *the eligible* ~~proposed~~ projects:

(a) *The project must promote economic growth and competitiveness.* ~~Economic development-related transportation projects may compete for funding under the program. Projects funded under this program should provide for increased mobility on the state's transportation system. Projects which have local or private matching funds may be given priority over other projects.~~

(b) *The project must promote intermodal transportation linkages for passengers and freight.* ~~Establishment of a funding allocation under this program reserved to quickly respond to transportation needs of emergent economic competitiveness development projects that may be outside of the routine project selection process. This funding may be used to match local or private contributions for transportation projects which meet the definition of economic competitiveness contained in this section.~~

(c) *The project must broaden transportation choices for Florida residents, visitors, and commercial interests in order to ensure efficient and cost-competitive mobility of people, services, and goods.* ~~Establish innovative financing methods to enable the state to respond in a timely manner to major or emergent economic development-related transportation needs that require timely commitments. These innovative financing methods include, but are not limited to, the state infrastructure bank, state bonds for right-of-way acquisition and bridge construction, state bonds for fixed guideway transportation systems, state bonds for federal aid highway construction, funds previously programmed by the department for high-speed rail development, and any other local, state, or federal funds made available to the department.~~

(d) Projects that have local, federal, or private matching funds shall be given priority over projects that meet all other criteria.

(7) Eligible projects shall also utilize innovative financing methods that enable the state to respond in a timely manner to major or emergent transportation needs related to economic development that require timely commitments. These innovative financing methods include, but are not limited to, private investment strategies, use of the state infrastructure bank, state bonds for right-of-way acquisition and bridge construction, state bonds for fixed guideway transportation systems, state bonds for federal aid highway construction, funds previously programmed by the department for high-speed rail development, and any other local, state, or federal funds made available to the department.

~~(6) In addition to complying with the prevailing principles provided in subsection (1), to be eligible for funding under the program, projects must also meet the following minimum criteria:~~

~~(a) The project or project phase selected can be made production-ready within a 5-year period following the end of the current fiscal year.~~

~~(b) The project is listed in an outer year of the 5-year work program and can be made production-ready and advanced to an earlier year of the 5-year work program.~~

~~(c) The project is consistent with a current transportation system plan including, but not limited to, the Florida Intrastate Highway System, aviation, intermodal/rail, seaport, spaceport, or transit system plans.~~

~~(d) The project is not inconsistent with an approved local comprehensive plan of any local government within whose boundaries the project is located in whole or in part or, if inconsistent, is accompanied by an explanation of why the project should be undertaken.~~

~~(e) One or more of the minimum criteria listed in paragraphs (a)-(d) may be waived for a statewide or regionally significant transportation project of critical concern.~~

(8)~~(7)~~ The Transportation Outreach Program (TOP) advisory council is created to annually make recommendations to the Legislature on prioritization and selection of economic growth projects as provided in this section.

(a) The council shall consist of:

1. Two representatives of private interests*, chosen by the Speaker of the House of Representatives,* who are directly involved in or affected by any mode of transportation or tourism ~~chosen by the Speaker of the House of Representatives~~.

2. Two representatives of private interests*, chosen by the President of the Senate,* who are directly involved in or affected by any mode of transportation or tourism ~~chosen by the President of the Senate~~.

3. Three representatives of private or governmental interests*, chosen by the Governor,* who are directly involved in or affected by any mode of transportation or tourism ~~chosen by the Governor~~.

(b) Terms for council members shall be 2 years, and each member shall be allowed one vote. *Every 2 years, the council shall select from among its membership a chair and vice chair.*

(c) ~~Initial appointments must be made no later than 60 days after this act takes effect.~~ Vacancies in the council shall be filled in the same manner as the initial appointments.

(d) ~~The council shall hold its initial meeting no later than 30 days after the members have been appointed in order to organize and select~~

~~a chair and vice chair from the council membership.~~ Meetings shall be held at the call of the chair, but not less frequently than quarterly.

(e) The members of the council shall serve without compensation, but shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

(f) The department shall provide administrative staff support, *ensuring that council meetings are electronically recorded. Such recordings and all documents received, prepared for, or used by the council in conducting its business shall be preserved pursuant to chapters 119 and 257. In addition, the department shall provide for* travel and per diem expenses for the council *in its annual budget*.

(g) The council shall develop a methodology for scoring and ranking project proposals based on the prioritization criteria in subsection (6). The council may change a project's ranking based on other factors as determined by the council. However, such other factors must be fully documented in writing by the council.

(h) The council is encouraged to seek input from transportation or economic development entities and to consider the reports and recommendations of task forces, study commissions, or similar entities charged with reviewing issues relevant to the council's mission.

(9)~~(8)~~ Because transportation investment plays a key role in economic development, the council and the department shall actively participate in state and local economic development programs, including:

(a) Working in partnership with other state and local agencies in business recruitment, expansion, and retention activities to ensure early transportation input into these activities.

(b) Providing expertise and rapid response in analyzing the transportation needs of emergent economic development projects.

(c) *Developing* ~~The council and department must develop~~ a macroeconomic analysis of the linkages between transportation investment and economic performance, as well as a method to quantifiably measure the economic benefits of the investments.

(d) Identifying long-term strategic transportation projects that will promote the principles listed in subsection (1).

(10)~~(9)~~ The council shall review and prioritize projects submitted for funding under the program ~~with priority given to projects which comply with the prevailing principles provided in subsection (1),~~ and shall recommend to the Legislature a transportation outreach program. The department shall provide technical expertise and support as requested by the council, and shall develop financial plans, cash forecast plans, and program and resource plans necessary to implement this program. These supporting documents shall be submitted with the Transportation Outreach Program.

(11)(a)~~(10)~~ Projects recommended for funding under the Transportation Outreach Program shall be submitted to the *Florida Transportation Commission at least 30 days before the start of the regular legislative session. The Florida Transportation Commission shall review the projects to determine whether they are in compliance with this section and prepare a report detailing its findings.*

(b) The council shall submit its list of recommended projects to the Governor and the Legislature as a separate *budget request submitted at the same time as* ~~section of~~ the department's *preliminary* tentative work program*, which is 14 days before the start of the regular session. The Florida Transportation Commission shall submit its written report at the same time to the Governor and the Legislature*. Final approval of the Transportation Outreach Program *project list* shall be made by the Legislature through the General Appropriations Act. Program projects approved by the Legislature must be included in the department's adopted work program.

(12)~~(11)~~ For purposes of funding projects under the *Transportation Outreach* Program, the department shall allocate from the State Transportation Trust Fund in its program and resource plan a minimum of $60 million each year beginning in fiscal *year* 2001-2002 ~~for a transportation outreach program~~. This funding is to be reserved for projects to be funded *pursuant to this section* ~~under the Transportation Outreach Program~~. This allocation of funds is in addition to any funding provided to this program by any other provision of law.

(13)~~(12)~~ Notwithstanding any other law to the contrary the requirements of ss. 206.46(3), 206.606(2), 339.135, 339.155, and 339.175 shall not apply to the Transportation Outreach Program.

(14)~~(13)~~ The department is authorized to adopt rules to implement the Transportation Outreach Program supporting economic development.

Section 37. Subsection (5) of section 341.051, Florida Statutes, is amended to read:

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

(5) FUND PARTICIPATION; CAPITAL ASSISTANCE.—

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

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

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

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

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

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

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

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

(e)~~(f)~~ The department is authorized to fund up to 50 percent of the capital and net operating costs of transit service development projects that are local in scope and that will improve system efficiencies,

ridership, or revenues. All such projects shall be identified in the appropriation request of the department through a specific program of projects, as provided for in s. 341.041, that is selectively applied in the following functional areas and is subject to the specified times of duration:

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

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

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

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

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

Section 38. Subsection (10) of section 341.302, Florida Statutes, is amended to read:

341.302 Rail program, duties and responsibilities of the department.—The department, in conjunction with other governmental units and the private sector, shall develop and implement a rail program of statewide application designed to ensure the proper maintenance, safety, revitalization, and expansion of the rail system to assure its continued and increased availability to respond to statewide mobility needs. Within the resources provided pursuant to chapter 216, and as authorized under Title 49 C.F.R. part 212, the department shall:

(10) Administer rail operating and construction programs, which programs shall include ~~the regulation of maximum train operating speeds,~~ the opening and closing of public grade crossings, the construction and rehabilitation of public grade crossings, and the installation of traffic control devices at public grade crossings, ~~the administering of the programs by the department~~ including participation in the cost of the programs.

Section 39. Paragraph (d) of subsection (2) of section 348.0003, Florida Statutes, is amended to read:

348.0003 Expressway authority; formation; membership.—

(2) The governing body of an authority shall consist of not fewer than five nor more than nine voting members. The district secretary of the affected department district shall serve as a nonvoting member of the governing body of each authority located within the district. Each member of the governing body must at all times during his or her term of office be a permanent resident of the county which he or she is appointed to represent.

(d) Notwithstanding any provision to the contrary in this subsection, in any county as defined in s. 125.011(1), the governing body of an authority shall consist of up to 13 members, and the following provisions of this paragraph shall apply specifically to such authority. Except for the district secretary of the department, the members must be residents of the county. Seven voting members shall be appointed by the governing body of the county. At the discretion of the governing body of the county, up to two of the members appointed by the governing body of the county may be elected officials residing in the county. Five voting members of the authority shall be appointed by the Governor. One member shall be the district secretary of the department serving in the district that contains such county. This member shall be an ex officio voting member of the authority. If the governing board of an authority includes any member originally appointed by the governing body of the county as a nonvoting member, when the term of such member expires, that member shall be replaced by a member appointed by the Governor until the governing body of the authority is composed of seven members appointed by the governing body of the county and five members appointed by the Governor. *The qualifications, the terms of office, and the obligations and rights of members of the authority shall be determined by resolution or ordinance of the governing body of the county in a manner that is consistent with subsections (3) and (4).*

Section 40. Section 348.0012, Florida Statutes, is amended to read:

348.0012 Exemptions from applicability.—The Florida Expressway Authority Act does not apply:

(1) *To* ~~In a county in which~~ an expressway authority *which* has been created pursuant to parts II-IX of this chapter; or

(2) To a transportation authority created pursuant to chapter 349.

Section 41. Section 348.565, Florida Statutes, is amended to read:

348.565 Revenue bonds for specified projects.—The existing facilities that constitute the Tampa-Hillsborough County Expressway System are hereby approved to be refinanced by the issuance of revenue bonds by the Division of Bond Finance of the State Board of Administration pursuant to s. 11(f), Art. VII of the State Constitution. In addition, the following projects of the Tampa-Hillsborough County Expressway Authority are approved to be financed or refinanced by the issuance of revenue bonds pursuant to s. 11(f), Art. VII of the State Constitution:

(1) Brandon area feeder roads;

(2) Capital improvements to the expressway system, including safety and operational improvements and toll collection equipment; ~~and~~

(3) Lee Roy Selmon Crosstown Expressway System widening*; and*~~.~~

(4) The connector highway linking the Lee Roy Selmon Crosstown Expressway to Interstate 4.

Section 42. Paragraph (b) of subsection (1) of section 348.754, Florida Statutes, is amended to read:

348.754 Purposes and powers.—

(1)

(b) It is the express intention of this part that said authority, in the construction of said Orlando-Orange County Expressway System, shall be authorized to *acquire, finance,* construct*, and equip* any extensions, additions*,* or improvements to said system*,* or appurtenant facilities, including all necessary approaches, roads, bridges*,* and avenues of access *as the authority shall deem desirable and proper*, *together* with such changes, modifications*,* or revisions *to* ~~of~~ said *system or appurtenant facilities* ~~project~~ as *the authority* shall *deem* ~~be deemed~~ desirable and proper.

Section 43. Section 348.7543, Florida Statutes, is amended to read:

348.7543 Improvements, bond financing authority for.—Pursuant to s. 11(e), Art. VII of the State Constitution, the Legislature hereby approves for bond financing by the Orlando-Orange County Expressway Authority *the cost of acquiring, constructing, equipping, improving, or refurbishing any expressway system, including* ~~improvements to~~ toll collection facilities, interchanges*, future extensions and additions, necessary approaches, roads, bridges, and avenues of access* ~~to the legislatively approved expressway system~~, and any other facility appurtenant, necessary, or incidental to the ~~approved~~ system*, all as deemed desirable and proper by the authority pursuant to s. 348.754(1)(b)*. Subject to terms and conditions of applicable revenue bond resolutions and covenants, such *costs* ~~financing~~ may be *financed* in whole or in part by revenue bonds *issued pursuant to s. 348.755(1)(a) or (b) whether* currently issued, issued in the future, or by a combination of such bonds.

Section 44. Section 348.7544, Florida Statutes, is amended to read:

348.7544 Northwest Beltway Part A, construction authorized; financing.—Notwithstanding s. 338.2275, the Orlando-Orange County Expressway Authority is hereby authorized to construct, finance, operate, own, and maintain that portion of the Western Beltway known as the Northwest Beltway Part A, extending from Florida's Turnpike near Ocoee north to U.S. 441 near Apopka, as part of the authority's 20-year capital projects plan. This project may be financed with any funds available to the authority for such purpose or revenue bonds issued by the Division of Bond Finance of the State Board of Administration on behalf of the authority pursuant to s. 11, Art. VII of the State Constitution and the State Bond Act, ss. 215.57-215.83. *This project may be refinanced with bonds issued by the authority pursuant to s. 348.755(1)(d).*

Section 45. Section 348.7545, Florida Statutes, is amended to read:

348.7545 Western Beltway Part C, construction authorized; financing.—Notwithstanding s. 338.2275, the Orlando-Orange County Expressway Authority is authorized to exercise its condemnation powers, construct, finance, operate, own, and maintain that portion of the Western Beltway known as the Western Beltway Part C, extending from Florida's Turnpike near Ocoee in Orange County southerly through Orange and Osceola Counties to an interchange with I-4 near the Osceola-Polk County line, as part of the authority's 20-year capital projects plan. This project may be financed with any funds available to the authority for such purpose or revenue bonds issued by the Division of Bond Finance of the State Board of Administration on behalf of the authority pursuant to s. 11, Art. VII of the State Constitution and the State Bond Act, ss. 215.57-215.83. *This project may be refinanced with bonds issued by the authority pursuant to s. 348.755(1)(d).*

Section 46. Subsection (1) of section 348.755, Florida Statutes, is amended to read:

348.755 Bonds of the authority.—

(1)(a) *Bonds may be issued on behalf of the authority pursuant to the State Bond Act.*

(b) Alternatively, the authority may issue its own bonds pursuant to the provisions of this part at such times and in such principal amount as, in the opinion of the authority, is necessary to provide sufficient moneys for achieving its purposes; however, such bonds shall not pledge the full faith and credit of the state. Bonds issued by the authority pursuant to paragraphs (a) or (b) ~~The bonds of the authority issued pursuant to the provisions of this part~~, whether on original issuance or on refunding, shall be authorized by resolution of the members thereof and may be either term or serial bonds, shall bear such date or dates, mature at such time or times, not exceeding 40 years from their respective dates, bear interest at such rate or rates, payable semiannually, be in such denominations, be in such form, either coupon or fully registered, shall carry such registration, exchangeability and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption and be entitled to such priorities on the revenues, rates, fees, rentals or other charges or receipts of the authority including the Orange County gasoline tax funds received by the authority pursuant to the terms of any lease-purchase agreement between the authority and the department, as such resolution or any resolution subsequent thereto may provide. The bonds shall be executed either by manual or facsimile signature by such officers as the authority shall determine, provided that such bonds shall bear at least one signature which is manually executed thereon, and the coupons attached to such bonds shall bear the facsimile signature or signatures of such officer or officers as shall be designated by the authority and shall have the seal of the authority affixed, imprinted, reproduced or lithographed thereon, all as may be prescribed in such resolution or resolutions.

(c)~~(b) Said~~ Bonds *issued pursuant to paragraphs (a) and (b)* shall be sold at public sale in the *same* manner provided by the State Bond Act. However, if the authority shall, by official action at a public meeting, determine that a negotiated sale of *such* ~~the~~ bonds is in the best interest of the authority, the authority may negotiate for sale of the bonds with the underwriter or underwriters designated by the authority and the Division of Bond Finance of the State Board of Administration *with respect to bonds issued pursuant to paragraph (b). The authority's determination to negotiate the sale of such bonds may be based in part upon the written advice of its financial advisor*. Pending the preparation of definitive bonds, interim certificates may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(d) The authority may issue bonds pursuant to paragraph (b) to refund any bonds previously issued regardless of whether the bonds being refunded were issued by the authority pursuant to this chapter or on behalf of the authority pursuant to the State Bond Act.

Section 47. Section 348.765, Florida Statutes, is amended to read:

348.765 This part complete and additional authority.—

(1) The powers conferred by this part shall be in addition and supplemental to the existing powers of said board and the department, and this part shall not be construed as repealing any of the provisions, of any other law, general, special or local, but to supersede such other laws in the exercise of the powers provided in this part, and to provide a complete method for the exercise of the powers granted in this part. The extension and improvement of said Orlando-Orange County Expressway System, and the issuance of bonds hereunder to finance all or part of the cost thereof, may be accomplished upon compliance with the provisions of this part without regard to or necessity for compliance with the provisions, limitations, or restrictions contained in any other general, special or local law, *including, but not limited to, s. 215.821,* and no approval of any bonds issued under this part by the qualified electors or qualified electors who are freeholders in the state or in said County of Orange, or in said City of Orlando, or in any other political subdivision of the state, shall be required for the issuance of such bonds pursuant to this part.

(2) This part shall not be deemed to repeal, rescind, or modify any other law or laws relating to said State Board of Administration, said Department of Transportation, or the Division of Bond Finance of the State Board of Administration, but shall be deemed to and shall supersede such other law or laws as are inconsistent with the provisions of this part*, including, but not limited to, s. 215.821*.

Section 48. Subsections (1) through (6) and subsection (8) of section 373.4137, Florida Statutes, are amended, and subsection (9) is added to said section, to read:

373.4137 Mitigation requirements.—

(1) The Legislature finds that environmental mitigation for the impact of transportation projects proposed by the Department of Transportation *or a transportation authority established pursuant to chapter 348 or chapter 349* can be more effectively achieved by regional, long-range mitigation planning rather than on a project-by-project basis. It is the intent of the Legislature that mitigation to offset the adverse effects of these transportation projects be funded by the Department of Transportation and be carried out by the Department of Environmental Protection and the water management districts, including the use of mitigation banks established pursuant to this part.

(2) Environmental impact inventories for transportation projects proposed by the Department of Transportation *or a transportation authority established pursuant to chapter 348 or chapter 349* shall be developed as follows:

(a) By May 1 of each year, the Department of Transportation *or a transportation authority established pursuant to chapter 348 or chapter 349* shall submit to the Department of Environmental Protection and the water management districts a copy of its adopted work program and an inventory of habitats addressed in the rules tentatively, pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted by its plan of construction for transportation projects in the next 3 years of the tentative work program. The Department of Transportation *or a transportation authority established pursuant to*

chapter 348 or chapter 349 may also include in its inventory the habitat impacts of any future transportation project identified in the tentative work program.

(b) The environmental impact inventory shall include a description of these habitat impacts, including their location, acreage, and type; state water quality classification of impacted wetlands and other surface waters; any other state or regional designations for these habitats; and a survey of threatened species, endangered species, and species of special concern affected by the proposed project.

(3)*(a)* To fund the mitigation plan for the projected impacts identified in the inventory described in subsection (2), the Department of Transportation shall identify funds quarterly in an escrow account within the State Transportation Trust Fund for the environmental mitigation phase of projects budgeted by the Department of Transportation for the current fiscal year. The escrow account will be maintained by the Department of Transportation for the benefit of the Department of Environmental Protection and the water management districts. Any interest earnings from the escrow account shall remain with the Department of Transportation.

(b) Each transportation authority established pursuant to chapter 348 or chapter 349 that chooses to participate in this program shall create an escrow account within its financial structure and deposit funds in the account to pay for the environmental mitigation phase of projects budgeted for the current fiscal year. The escrow account will be maintained by the authority for the benefit of the Department of Environmental Protection and the water management districts. Any interest earnings from the escrow account shall remain with the authority.

(c) The Department of Environmental Protection or water management districts may request a transfer of funds from *an* ~~the~~ escrow account no sooner than 30 days prior to the date the funds are needed to pay for activities associated with development or implementation of the approved mitigation plan described in subsection (4) for the current fiscal year, including, but not limited to, design, engineering, production, and staff support. Actual conceptual plan preparation costs incurred before plan approval may be submitted to the Department of Transportation *or the appropriate transportation authority* and the Department of Environmental Protection by November 1 of each year with the plan. The conceptual plan preparation costs of each water management district will be paid based on the amount approved on the mitigation plan and allocated to the current fiscal year projects identified by the water management district. The amount transferred to the escrow *accounts* ~~account~~ each year by the Department of Transportation *and participating transportation authorities established pursuant to chapter 348 or chapter 349* shall correspond to a cost per acre of $75,000 multiplied by the projected acres of impact identified in the inventory described in subsection (2). However, the $75,000 cost per acre does not constitute an admission against interest by the state or its subdivisions nor is the cost admissible as evidence of full compensation for any property acquired by eminent domain or through inverse condemnation. Each July 1, the cost per acre shall be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. At the end of each year, the projected acreage of impact shall be reconciled with the acreage of impact of projects as permitted, including permit modifications, pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344. The subject year's transfer of funds shall be adjusted accordingly to reflect the overtransfer or undertransfer of funds from the preceding year. The Department of Transportation *and participating transportation authorities established pursuant to chapter 348 or chapter 349 are* ~~is~~ authorized to transfer such funds from the escrow *accounts* ~~account~~ to the Department of Environmental Protection and the water management districts to carry out the mitigation programs.

(4) Prior to December 1 of each year, each water management district, in consultation with the Department of Environmental Protection, the United States Army Corps of Engineers, the Department of Transportation, *transportation authorities established pursuant to chapter 348 or chapter 349,* and other appropriate federal, state, and local governments, and other interested parties, including entities operating mitigation banks, shall develop a plan for the primary purpose of complying with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344. This plan shall also address significant invasive plant problems within wetlands and other surface waters. In developing such plans, the districts shall utilize sound ecosystem management practices to address significant water resource needs and shall focus on activities of the Department of Environmental Protection and the water management districts, such as surface water improvement and management (SWIM) waterbodies and lands identified for potential acquisition for preservation, restoration, and enhancement, to the extent that such activities comply with the mitigation requirements adopted under this part and 33 U.S.C. s. 1344. In determining the activities to be included in such plans, the districts shall also consider the purchase of credits from public or private mitigation banks permitted under s. 373.4136 and associated federal authorization and shall include such purchase as a part of the mitigation plan when such purchase would offset the impact of the transportation project, provide equal benefits to the water resources than other mitigation options being considered, and provide the most cost-effective mitigation option. The mitigation plan shall be preliminarily approved by the water management district governing board and shall be submitted to the secretary of the Department of Environmental Protection for review and final approval. The preliminary approval by the water management district governing board does not constitute a decision that affects substantial interests as provided by s. 120.569. At least 30 days prior to preliminary approval, the water management district shall provide a copy of the draft mitigation plan to any person who has requested a copy.

(a) For each transportation project with a funding request for the next fiscal year, the mitigation plan must include a brief explanation of why a mitigation bank was or was not chosen as a mitigation option, including an estimation of identifiable costs of the mitigation bank and nonbank options to the extent practicable.

(b) Specific projects may be excluded from the mitigation plan and shall not be subject to this section upon the agreement of the Department of Transportation, *a transportation authority if applicable,* the Department of Environmental Protection, and the appropriate water management district that the inclusion of such projects would hamper the efficiency or timeliness of the mitigation planning and permitting process, or the Department of Environmental Protection and the water management district are unable to identify mitigation that would offset the impacts of the project.

(c) Surface water improvement and management or invasive plant control projects undertaken using the $12 million advance transferred from the Department of Transportation to the Department of Environmental Protection in fiscal year 1996-1997 which meet the requirements for mitigation under this part and 33 U.S.C. s. 1344 shall remain available for mitigation until the $12 million is fully credited up to and including fiscal year 2004-2005. When these projects are used as mitigation, the $12 million advance shall be reduced by $75,000 per acre of impact mitigated. For any fiscal year through and including fiscal year 2004-2005, to the extent the cost of developing and implementing the mitigation plans is less than the amount transferred pursuant to subsection (3), the difference shall be credited towards the $12 million advance. Except as provided in this paragraph, any funds not directed to implement the mitigation plan should, to the greatest extent possible, be directed to fund invasive plant control within wetlands and other surface waters.

(5) The water management district shall be responsible for ensuring that mitigation requirements pursuant to 33 U.S.C. s. 1344 are met for the impacts identified in the inventory described in subsection (2), by implementation of the approved plan described in subsection (4) to the extent funding is provided by the Department of Transportation*, or a transportation authority established pursuant to chapter 348 or chapter 349 if applicable*. During the federal permitting process, the water

management district may deviate from the approved mitigation plan in order to comply with federal permitting requirements.

(6) The mitigation *plans* ~~plan~~ shall be updated annually to reflect the most current Department of Transportation work program *and project list of a transportation authority established pursuant to chapter 348 or chapter 349 if applicable* and may be amended throughout the year to anticipate schedule changes or additional projects which may arise. Each update and amendment of the mitigation plan shall be submitted to the secretary of the Department of Environmental Protection for approval. However, such approval shall not be applicable to a deviation as described in subsection (5).

(8) This section shall not be construed to eliminate the need for the Department of Transportation *or a transportation authority established pursuant to chapter 348 or chapter 349* to comply with the requirement to implement practicable design modifications, including realignment of transportation projects, to reduce or eliminate the impacts of its transportation projects on wetlands and other surface waters as required by rules adopted pursuant to this part, or to diminish the authority under this part to regulate other impacts, including water quantity or water quality impacts, or impacts regulated under this part that are not identified in the inventory described in subsection (2).

(9) The process for environmental mitigation for the impact of transportation projects under this section shall be available to an expressway, bridge, or transportation authority established under chapters 348 and 349. Use of this process may be initiated by an authority depositing the requisite funds into an escrow account set up by the authority and filing an environmental impact inventory with the appropriate water management district. An authority that initiates the environmental mitigation process established by this section shall comply with subsection (6) by timely providing the appropriate water management district and the Department of Environmental Protection with the requisite work program information. A water management district may draw down funds from the escrow account in the manner and on the basis provided in subsection (5).

Section 49. paragraphs (b) and (e) of subsection (19) of section 380.06, Florida Statutes, are amended, and paragraphs (i) and (j) are added to subsection (24) of said section, to read:

380.06 Developments of regional impact.—

(19) SUBSTANTIAL DEVIATIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The substantial deviation numerical standards in subparagraphs *3.*~~4.~~, *5.*~~6.~~, *8.*~~10.~~, *12.*~~14.~~, excluding residential uses, and *13.*~~15.~~, are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Office of Tourism, Trade, and Economic Development as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs *3.*~~4.~~, *5.*~~6.~~, *7.*~~9.~~, *8.*~~10.~~, *9.*~~11.~~, and *12.*~~14.~~ are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

(e)1. A proposed change which, either individually or, if there were previous changes, cumulatively with those changes, is equal to or exceeds 40 percent of any numerical criterion in subparagraphs (b)*1.-13.*~~1.-15.~~, but which does not exceed such criterion, shall be presumed not to create a substantial deviation subject to further development-of-regional-impact review. The presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government pursuant to subparagraph (f)5.

2. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order that individually or cumulatively with any previous change is less than 40 percent of any numerical criterion contained in subparagraphs (b)*1.-13.*~~1.-15.~~ and does not exceed any other criterion, or that involves an extension of the buildout date of a development, or any phase thereof, of less than 5 years is not subject to the public hearing requirements of subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice shall include a description of previous individual changes made to the development, including changes previously approved by the local government, and shall include appropriate amendments to the development order. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:

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

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

c. Changes to minimum lot sizes.

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

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

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

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

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

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

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

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

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

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

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

b. Except for the types of uses listed in subparagraph (b)*14.*~~16.~~, any change which would result in the development of any area which was specifically set aside in the application for development approval or in the development order for preservation, buffers, or special protection, including habitat for plant and animal species, archaeological and historical sites, dunes, and other special areas.

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

(24) STATUTORY EXEMPTIONS.—

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

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

Section 50. Subsection (3) of section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines and standards.—

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

~~(a) Airports.—~~

~~1. Any of the following airport construction projects shall be a development of regional impact:~~

~~a. A new commercial service or general aviation airport with paved runways.~~

~~b. A new commercial service or general aviation paved runway.~~

~~c. A new passenger terminal facility.~~

~~2. Lengthening of an existing runway by 25 percent or an increase in the number of gates by 25 percent or three gates, whichever is greater, on a commercial service airport or a general aviation airport with regularly scheduled flights is a development of regional impact. However, expansion of existing terminal facilities at a nonhub or small hub commercial service airport shall not be a development of regional impact.~~

~~3. Any airport development project which is proposed for safety, repair, or maintenance reasons alone and would not have the potential to increase or change existing types of aircraft activity is not a development of regional impact. Notwithstanding subparagraphs 1. and 2., renovation, modernization, or replacement of airport airside or terminal facilities that may include increases in square footage of such facilities but does not increase the number of gates or change the existing types of aircraft activity is not a development of regional impact.~~

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

1. For single performance facilities:

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

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

2. For serial performance facilities:

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

b. Provides more than 4,000 permanent seats for spectators.

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

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

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

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

(b)~~(c)~~ Industrial plants, industrial parks, and distribution, warehousing or wholesaling facilities.—Any proposed industrial, manufacturing, or processing plant, or distribution, warehousing, or wholesaling facility, excluding wholesaling developments which deal primarily with the general public onsite, under common ownership, or any proposed industrial, manufacturing, or processing activity or distribution, warehousing, or wholesaling activity, excluding wholesaling activities which deal primarily with the general public onsite, which:

1. Provides parking for more than 2,500 motor vehicles*, excluding those vehicles which may be included in wholesaling facilities' inventory*; or

2. Occupies a site greater than 320 acres*, or for motor vehicle wholesaling facilities that conduct wholesaling sales activity no more frequently than an average each year of 3 days per week, occupies a site greater than 500 acres*.

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

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

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

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

(d)~~(e)~~ Port facilities.—The proposed construction of any waterport or marina is required to undergo development-of-regional-impact review, except one designed for:

1.a. The wet storage or mooring of fewer than 150 watercraft used exclusively for sport, pleasure, or commercial fishing, or

b. The dry storage of fewer than 200 watercraft used exclusively for sport, pleasure, or commercial fishing, or

c. The wet or dry storage or mooring of fewer than 150 watercraft on or adjacent to an inland freshwater lake except Lake Okeechobee or any lake which has been designated an Outstanding Florida Water, or

d. The wet or dry storage or mooring of fewer than 50 watercraft of 40 feet in length or less of any type or purpose. The exceptions to this paragraph's requirements for development-of-regional-impact review shall not apply to any waterport or marina facility located within or which serves physical development located within a coastal barrier resource unit on an unbridged barrier island designated pursuant to 16 U.S.C. s. 3501.

In addition to the foregoing, for projects for which no environmental resource permit or sovereign submerged land lease is required, the Department of Environmental Protection must determine in writing that a proposed marina in excess of 10 slips or storage spaces or a combination of the two is located so that it will not adversely impact Outstanding Florida Waters or Class II waters and will not contribute boat traffic in a manner that will have an adverse impact on an area known to be, or likely to be, frequented by manatees. If the Department of Environmental Protection fails to issue its determination within 45 days of receipt of a formal written request, it has waived its authority to make such determination. The Department of Environmental Protection determination shall constitute final agency action pursuant to chapter 120.

2. The dry storage of fewer than 300 watercraft used exclusively for sport, pleasure, or commercial fishing at a marina constructed and in operation prior to July 1, 1985.

3. Any proposed marina development with both wet and dry mooring or storage used exclusively for sport, pleasure, or commercial fishing, where the sum of percentages of the applicable wet and dry mooring or storage thresholds equals 100 percent. This threshold is in addition to, and does not preclude, a development from being required to undergo development-of-regional-impact review under sub-subparagraphs 1.a. and b. and subparagraph 2.

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

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

2. Occupies more than 40 acres of land; or

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

(f)~~(g)~~ Hotel or motel development.—

1. Any proposed hotel or motel development that is planned to create or accommodate 350 or more units; or

2. Any proposed hotel or motel development that is planned to create or accommodate 750 or more units, in a county with a population greater than 500,000, and only in a geographic area specifically designated as highly suitable for increased threshold intensity in the approved local comprehensive plan and in the strategic regional policy plan.

(g)~~(h)~~ Recreational vehicle development.—Any proposed recreational vehicle development planned to create or accommodate 500 or more spaces.

(h)~~(i)~~ Multiuse development.—Any proposed development with two or more land uses where the sum of the percentages of the appropriate thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use in the development is equal to or greater than 145 percent. Any proposed development with three or more land uses, one of which is residential and contains at least 100 dwelling units or 15 percent of the applicable residential threshold, whichever is greater, where the sum of the percentages of the appropriate thresholds identified in chapter 28-24, Florida Administrative Code, or this section for each land use in the development is equal to or greater than 160 percent. This threshold is in addition to, and does not preclude, a development from being required to undergo development-of-regional-impact review under any other threshold.

(i) ~~(j)~~ Residential development.—No rule may be adopted concerning residential developments which treats a residential development in one county as being located in a less populated adjacent county unless more than 25 percent of the development is located within 2 or less miles of the less populated adjacent county.

(j)~~(k)~~ Schools.—

1. The proposed construction of any public, private, or proprietary postsecondary educational campus which provides for a design population of more than 5,000 full-time equivalent students, or the proposed physical expansion of any public, private, or proprietary postsecondary educational campus having such a design population that would increase the population by at least 20 percent of the design population.

2. As used in this paragraph, "full-time equivalent student" means enrollment for 15 or more quarter hours during a single academic semester. In area vocational schools or other institutions which do not employ semester hours or quarter hours in accounting for student participation, enrollment for 18 contact hours shall be considered equivalent to one quarter hour, and enrollment for 27 contact hours shall be considered equivalent to one semester hour.

3. This paragraph does not apply to institutions which are the subject of a campus master plan adopted by the Board of Regents pursuant to s. 240.155.

Section 51. Paragraph (a) of subsection (12) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

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

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

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

Section 52. Subsection (20) of section 331.303, Florida Statutes, is amended to read:

331.303 Definitions.—

(20) "Spaceport launch facilities" shall be defined as industrial facilities in accordance with s. 380.0651(3)*(b)*~~(c)~~ and include any launch pad, launch control center, and fixed launch-support equipment.

Section 53. Section 331.308, Florida Statutes, is amended to read:

331.308 Board of supervisors.—

(1) There is created within the Spaceport Florida Authority a board of supervisors consisting of

(a) The Lieutenant Governor, serving as the chair;

(b) Six ~~seven~~ regular members~~, who shall be~~ appointed by the Governor;~~, and~~

(c) Two ex officio nonvoting members *who are members of the Legislature*, ~~one of whom shall be~~ a state senator selected by the President of the Senate and ~~one of whom shall be~~ a state representative selected by the Speaker of the House of Representatives*; and*

(d) The director of the Office of Tourism, Trade, and Economic Development as an ex officio nonvoting member.

Regular members are~~, all of whom shall be~~ subject to confirmation by the Senate at the next regular session of the Legislature*, and*~~:~~ each of *them* ~~the regular board members~~ must be a resident of the state and must have experience in the aerospace or commercial space industry or in finance or have other significant relevant experience. One regular member shall represent organized labor interests and one regular member shall represent minority interests.

(2) Each *regular* member shall serve a term of 4 years or until a successor is appointed and qualified. The term of each such member shall be construed to commence on the date of appointment and to terminate on June 30 of the year of the end of the term. Appointment to the board shall not preclude any such member from holding any other private or public position.

(3) The ex officio nonvoting *legislative* members shall serve on the board for 2-year terms.

(4) Any vacancy on the board shall be filled for the balance of the unexpired term.

(5) *The Lieutenant Governor is the state's space policy leader. The Lieutenant Governor may designate a regular member to serve as vice-chair and preside over board meetings in the absence of the chair and may assign proxy voting power to the director of the Office of Tourism, Trade, and Economic Development.* ~~Initial appointments shall be made no later than 60 days after this act takes effect.~~

(6) ~~The board shall hold its initial meeting no later than 20 days after the members have been appointed. At its initial meeting, or as soon thereafter as is practicable,~~ The board shall appoint an executive director. Meetings shall be held quarterly or more frequently at the call of the chair. A majority of the regular members of the board shall constitute a quorum, and a majority vote of such members present is necessary for any action taken by the board.

(7) The Governor *may* ~~has the authority to~~ remove from the board any regular member in the manner and for cause as defined by the laws of this state and applicable to situations *that* ~~which may~~ arise before the board. Unless excused by the chair of the board, a regular member's absence from two or more consecutive board meetings creates a vacancy in the office to which the member was appointed.

Section 54. *(1) Nothing contained in this act abridges or modifies any vested or other right or any duty or obligation pursuant to any development order or agreement which is applicable to a development of regional impact on the effective date of this act. An airport or petroleum storage facility which has received a development-of-regional-impact development order pursuant to s. 380.06, Florida Statutes 2000, but is no longer required to undergo development-of-regional-impact review by operation of this act, shall be governed by the following procedures:*

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

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

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

Section 55. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 56. Subsection (13) is added to section 475.011, Florida Statutes, to read:

475.011 Exemptions.—This part does not apply to:

(13) Any firm that is under contract with a state or local governmental entity to provide right-of-way acquisition services for property subject to condemnation, or any employee of such a firm, if the compensation for such services is not based upon the value of the property acquired. No firm nor any employee of such a firm may engage in the practice of real estate, except those activities pursuant to a contract with a state or local governmental entity and pursuant to the exception provided in this paragraph, without meeting the licensure and qualifications requirements of chapter 475.

Section 57. Subsection (2) of section 479.15, Florida Statutes, is amended to read:

479.15 Harmony of regulations.—

(2) A municipality, county, local zoning authority, or other local governmental entity may not remove, or cause to be removed, any lawfully erected sign along any portion of the interstate or federal-aid primary highway system without first paying just compensation for such removal. A local governmental entity may not cause in any way the alteration of any lawfully erected sign located along any portion of the interstate or federal-aid primary highway system without payment of just compensation if such alteration constitutes a taking under state law. The municipality, county, local zoning authority, or other local government entity promulgating requirements for such alteration must be responsible for payment of just compensation to the sign owner if such alteration constitutes a taking under state law. This subsection applies only to a lawfully erected sign the subject matter of which relates to premises other than the premises on which it is located or to merchandise, services, activities, or entertainment not sold, produced, manufactured, or furnished on the premises on which the sign is located. *For the purposes of this subsection, the term "federal-aid primary highway system" means the federal-aid primary highway system in existence on June 1, 1991, and any highway which was not on such system but which is, or hereafter becomes, a part of the National Highway System.* This subsection shall not be interpreted as explicit or implicit legislative recognition that alterations do or do not constitute a taking under state law.

Section 58. Section 479.25, Florida Statutes, is created to read:

479.25 Application of chapter.—Nothing in this chapter shall prevent a governmental entity from entering into an agreement allowing the height above ground level of a lawfully erected sign to be increased at its permitted location if a noise attenuation barrier, visibility screen, or other highway improvement has been erected in such a way as to screen or block visibility of such a sign; provided, however, that for nonconforming signs located on the federal-aid primary highway system, as such system existed on June 1, 1991, and any highway which was not on such system but which is, or hereinafter becomes, a part of the National Highway System, such agreement must be approved by the Federal Highway Administration. Any increase in height permitted under this provision shall only be that which is required to achieve the same degree of visibility from the right-of-way that the sign had prior to the construction of the noise attenuation barrier, visibility screen, or other highway improvement.

Section 59. Section 70.20, Florida Statutes, is created to read:

70.20 Balancing of interests.—It is a policy of this state to encourage municipalities, counties, and other governmental entities and sign owners to enter into relocation and reconstruction agreements that allow governmental entities to undertake public projects and accomplish public goals without the expenditure of public funds, while allowing the continued maintenance of private investment in signage as a medium of commercial and noncommercial communication.

(1) Municipalities, counties, and all other governmental entities are specifically empowered to enter into relocation and reconstruction agreements on whatever terms are agreeable to the sign owner and the municipality, county, or other governmental entity involved and to provide for relocation and reconstruction of signs by agreement, ordinance, or resolution. As used in this section, a "relocation and reconstruction agreement" means a consensual, contractual agreement between a sign owner and municipality, county, or other governmental entity for either the reconstruction of an existing sign or removal of a sign and the construction of a new sign to substitute for the sign removed.

(2) Except as otherwise provided in this section, no municipality, county, or other governmental entity may remove, or cause to be removed, any lawfully erected sign along any portion of the interstate, federal-aid primary or other highway system, or any other road, without first paying just compensation for such removal as determined by agreement between the parties or through eminent domain proceedings. Except as otherwise provided in this section, no municipality, county, or other governmental entity may cause in any way the alteration of any lawfully erected sign located along any portion of the interstate, federal-aid primary or other highway system, or any other road, without first paying just compensation for such alteration as determined by agreement between the parties or through eminent domain proceedings. The provisions of this act shall not apply to any ordinance, the validity, constitutionality, and enforceability of which the owner has by written agreement waived all right to challenge.

(3) In the event that a municipality, county, or other governmental entity shall undertake a public project or public goal requiring alteration or removal of any lawfully erected sign, the municipality, county, or other governmental entity shall notify the owner of the affected sign in writing of the public project or goal and of the intention of the municipality, county, or other governmental entity to seek such removal. Within 30 days after receipt of the notice, the owner of the sign and the municipality, county, or other governmental entity shall attempt to meet for purposes of negotiating and executing a relocation and reconstruction agreement provided for in subsection (1).

(4) If the parties fail to enter into a relocation and reconstruction agreement within 120 days after the initial notification by the municipality, county, or other governmental entity, either party may request mandatory nonbinding arbitration to resolve the disagreements among the parties. Each party shall select an arbitrator, and the individuals so selected shall choose a third arbitrator. The three arbitrators shall constitute the panel that shall arbitrate the dispute between the parties and at the conclusion of the proceedings shall present to the parties a proposed relocation and reconstruction agreement that the panel believes equitably balances the rights, interests, obligations, and reasonable expectations of the parties. If the municipality, county, or other governmental entity and the sign owner accept the proposed relocation and reconstruction agreement, the municipality, county, or other governmental entity and sign owner shall each pay its respective costs of arbitration and shall pay one-half of the costs of the arbitration panel, unless the parties otherwise agree.

(5) If the parties do not enter into a relocation and reconstruction agreement, the municipality, county, or other governmental entity may proceed with the public project or purpose and the alteration or removal of the sign only after first paying just compensation for such alteration or removal as determined by agreement between the parties or through eminent domain proceedings.

(6) The requirement by a municipality, county, or other governmental entity that a lawfully erected sign be removed or altered as a condition precedent to the issuance or continued effectiveness of a development order constitutes a compelled removal that is prohibited without prior payment of just compensation under subsection (2). This subsection does not apply when the owner of the land on which the sign is located is seeking to have the property redesignated on the future land use map of the applicable comprehensive plan for exclusively single-family residential use.

(7) The requirement by a municipality, county, or other governmental entity that a lawfully erected sign be altered or removed from the premises upon which it is located incident to the voluntary acquisition of such property by a municipality, county, or other governmental entity

constitutes a compelled removal which is prohibited without payment of just compensation under subsection (2).

(8) Nothing in this section shall prevent a municipality, county, or other governmental entity from acquiring a lawfully erected sign through eminent domain or from prospectively regulating the placement, size, height, or other aspects of new signs within such entity's jurisdiction, including the prohibition of new signs, unless otherwise authorized pursuant to this section. Nothing in this section shall impair any ordinance or provision of any ordinance not inconsistent with this section, nor shall this section create any new rights for any party other than the owner of a sign, the owner of the land upon which it is located, or a municipality, county, or other governmental entity as expressed in this section.

(9) This section applies only to a lawfully erected sign the subject matter of which relates to premises other than the premises on which it is located or to merchandise, services, activities, or entertainment not sold, produced, manufactured, or furnished on the premises on which the sign is located.

(10) This section does not apply to any actions taken by the Florida Department of Transportation which relate to the operation, maintenance, or expansion of transportation facilities, and this section does not affect existing law regarding eminent domain relating to the Florida Department of Transportation.

(11) Nothing in this act shall impair or affect any written agreement existing prior to the effective date of this act, including, but not limited to, any settlement agreements reliant upon the legality or enforceability of local ordinances. The provisions of this act shall not apply to any signs that are required to be removed by a date certain in areas designated by local ordinance as view corridors if the local ordinance creating the view corridors was enacted in part to effectuate a consensual agreement between the local government and two or more sign owners prior to the effective date of this act, nor shall the provisions of this act apply to any signs that are the subject of an ordinance providing an amortization period, which period has expired, and which ordinance is the subject of judicial proceedings which were commenced on or before January 1, 2001.

(12) Subsection (6) hereof does not apply when the development order permits construction of a replacement sign that cannot be erected without the removal of the lawfully erected sign being replaced. Effective upon this section becoming a law, the Office of Program Analysis and Governmental Accountability, in consultation with the property appraisers and the private sector affected parties, shall conduct a study of the value of offsite signs in relation to, and in comparison with, the valuation of other commercial properties for ad valorem tax purposes, including a comparison of tax valuations from other states. OPPAGA shall complete the study by December 31, 2001, and shall report the results of the study to the Legislature.

Section 60. Paragraph (b) of subsection (1) of section 496.425, Florida Statutes, is amended to read:

496.425 Solicitation of funds within public transportation facilities.—

(1) As used in this section:

(b) "Facility" means any public transportation facility, including, but not limited to, railroad stations, bus stations, ship ports, ferry terminals, *or* ~~roadside welcome stations, highway service plazas,~~ airports served by scheduled passenger service~~, or highway rest stations~~.

Section 61. Section 496.4256, Florida Statutes, is created to read:

496.4256 Public transportation facilities not required to grant permit or access.—A governmental entity or authority that owns or operates welcome centers, wayside parks, service plazas, or rest areas on the state highway system as defined in chapter 335 may not be required to issue a permit or grant any person access to such public transportation facilities for the purpose of soliciting funds.

Section 62. Section 337.408, Florida Statutes, is amended to read:

337.408 Regulation of benches, transit shelters, *street light poles,* and waste disposal receptacles within rights-of-way.—

(1) Benches or transit shelters, including advertising displayed on benches or transit shelters, may be installed within the right-of-way limits of any municipal, county, or state road, except a limited access highway; provided that such benches or transit shelters are for the comfort or convenience of the general public, or at designated stops on official bus routes; and, provided further, that written authorization has been given to a qualified private supplier of such service by the municipal government within whose incorporated limits such benches or transit shelters are installed, or by the county government within whose unincorporated limits such benches or transit shelters are installed. A municipality or county may authorize the installation, *with or* without public bid, of benches and transit shelters together with advertising displayed thereon, within the right-of-way limits of such roads. Any contract for the installation of benches or transit shelters or advertising on benches or transit shelters which was entered into before April 8, 1992, without public bidding, is ratified and affirmed. Such benches or transit shelters may not interfere with right-of-way preservation and maintenance. Any bench or transit shelter located on a sidewalk within the right-of-way limits of any road on the State Highway System or the county road system shall be located so as to leave at least 36 inches clearance for pedestrians and persons in wheelchairs. Such clearance shall be measured in a direction perpendicular to the centerline of the road.

(2) Waste disposal receptacles *the interior collection container volume* of *which is* less than 110 gallons in capacity, including advertising displayed on such waste disposal receptacles, may be installed within the right-of-way limits of any municipal, county, or state road, except a limited access highway; provided that written authorization has been given to a qualified private supplier of such service by the appropriate municipal or county government. A municipality or county may authorize the installation, *with or* without public bid, of waste disposal receptacles together with advertising displayed thereon within the right-of-way limits of such roads. Such waste disposal receptacles may not interfere with right-of-way preservation and maintenance.

(3) The department has the authority to direct the immediate relocation or removal of any bench, transit shelter, or waste disposal receptacle which endangers life or property, except that transit bus benches which have been placed in service prior to April 1, 1992, do not have to comply with bench size and advertising display size requirements which have been established by the department prior to March 1, 1992. Any transit bus bench that was in service prior to April 1, 1992, may be replaced with a bus bench ~~of the same size or smaller~~, if the bench is damaged or destroyed or otherwise becomes unusable. *As of July 1, 2001, the department, municipality, or county may direct the removal of any bench, transit shelter, or waste disposal receptacle, or advertisement thereon, if the department, municipality, or county determines that the bench, transit shelter, or waste disposal receptacle is structurally unsound or in visible disrepair.*

(4) No bench, transit shelter, or waste disposal receptacle, or advertising thereon, shall be erected or so placed on the right-of-way of any road which conflicts with the requirements of federal law, regulations, or safety standards, thereby causing the state or any political subdivision the loss of federal funds. Competition among persons seeking to provide bench, transit shelter, or waste disposal receptacle services or advertising on such benches, shelters, or receptacles may be regulated, restricted, or denied by the appropriate local government entity consistent with the provisions of this section.

(5) Street light poles, including attached public service messages and advertisements, may be located within the right-of-way limits of municipal and county roads in the same manner as benches, transit shelters, and waste receptacles, as provided in this section and in accordance with municipal and county ordinances. Public service messages and advertising may be installed on street light poles on roads on the State Highway System in accordance with height, size, setback,

spacing distance, duration of display, safety, traffic control, and permitting requirements established by administrative rule of the Department of Transportation. Public service messages and advertisements shall be subject to bilateral agreements, where applicable, to be negotiated with the owner of the street light poles which shall consider, among other things, power source rates, design, safety, operational and maintenance concerns and other matters of public importance. For the purposes of this section, "street light poles" does not include electric transmission or distribution poles. The department shall have authority to establish administrative rules to implement this subsection. No advertising on light poles shall be permitted on the Interstate Highway System. No permanent structures carrying advertisements attached to light poles shall be permitted on the National Highway System.

(6)~~(5)~~ Wherever the provisions of this section are inconsistent with other provisions of this chapter or with the provisions of chapter 125, chapter 335, chapter 336, or chapter 479, the provisions of this section shall prevail.

Section 63. Subsection (10) of section 768.28, Florida Statutes, is amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(10)(a) Health care providers or vendors, or any of their employees or agents, that have contractually agreed to act as agents of the Department of Corrections to provide health care services to inmates of the state correctional system shall be considered agents of the State of Florida, Department of Corrections, for the purposes of this section, while acting within the scope of and pursuant to guidelines established in said contract or by rule. The contracts shall provide for the indemnification of the state by the agent for any liabilities incurred up to the limits set out in this chapter.

(b) This subsection shall not be construed as designating persons providing contracted health care services to inmates as employees or agents of the state for the purposes of chapter 440.

(c) For purposes of this section, regional poison control centers created in accordance with s. 395.1027 and coordinated and supervised under the Division of Children's Medical Services Prevention and Intervention of the Department of Health, or any of their employees or agents, shall be considered agents of the State of Florida, Department of Health. Any contracts with poison control centers must provide, to the extent permitted by law, for the indemnification of the state by the agency for any liabilities incurred up to the limits set out in this chapter.

(d) For the purposes of this section, operators of rail services and providers of security for rail services, or any of their employees or agents, that have contractually agreed to act as agents of the Tri-County Commuter Rail Authority to operate rail services or provide security for rail services, shall be considered agents of the State of Florida while acting within the scope of and pursuant to guidelines established in said contract or by rule. The contract shall provide for the indemnification of the state by the agent for any liability incurred up to the limits set out in this chapter.

Section 64. Section 337.025, Florida Statutes, is amended to read:

337.025 Innovative highway projects; department to establish program.—The department is authorized to establish a program for highway projects demonstrating innovative techniques of highway construction, maintenance, and finance which have the intended effect of controlling time and cost increases on construction projects. Such techniques may include, but are not limited to, state-of-the-art technology for pavement, safety, and other aspects of highway construction and maintenance; innovative bidding and financing techniques; accelerated construction procedures; and those techniques that have the potential to reduce project life cycle costs. To the maximum extent practical, the department must use the existing process to award and administer construction and maintenance contracts. When specific innovative techniques are to be used, the department is not required to adhere to those provisions of law that would prevent, preclude, or in any way prohibit the department from using the innovative technique. However, prior to using an innovative technique that is inconsistent with another provision of law, the department must document in writing the need for the exception and identify what benefits the traveling public and the affected community are anticipated to receive. The department may enter into no more than $120 million in contracts annually for the purposes authorized by this section. *However, the annual cap on contracts provided in this section shall not apply to turnpike enterprise projects nor shall turnpike enterprise projects be counted toward the department's annual cap.*

Section 65. Paragraph (c) of subsection (3) of section 337.11, Florida Statutes, is amended to read:

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

(3)

(c) No advertisement for bids shall be published and no bid solicitation notice shall be provided until title to all necessary rights-of-way and easements for the construction of the project covered by such advertisement or notice has vested in the state or a local governmental entity, and all railroad crossing and utility agreements have been executed. *The turnpike enterprise is exempt from this paragraph for a turnpike enterprise project.* Title to all necessary rights-of-way shall be deemed to have been vested in the State of Florida when such title has been dedicated to the public or acquired by prescription.

Section 66. Subsection (7) of section 338.165, Florida Statutes, is amended to read:

338.165 Continuation of tolls.—

(7) This section does not apply to the turnpike system as defined under the Florida Turnpike *Enterprise* Law.

Section 67. Section 338.22, Florida Statutes, is amended to read:

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

Section 68. Section 338.221, Florida Statutes, is amended to read:

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

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

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

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

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

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

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

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

(8) "Economically feasible" *for a proposed turnpike project* means *that the revenues of the project in combination with those of the existing turnpike system are sufficient to service the debt of the outstanding turnpike bonds to safeguard investors.* ~~:~~

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

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

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

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

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

Section 69. Section 338.2215, Florida Statutes, is created to read:

338.2215 Florida Turnpike Enterprise; legislative findings, policy, purpose, and intent.—It is the intent of the Legislature that the turnpike enterprise be provided additional powers and authority in order to maximize the advantages obtainable through fully leveraging the Florida Turnpike System asset. The additional powers and authority will provide the turnpike enterprise with the autonomy and flexibility to enable it to more easily pursue innovations as well as best practices found in the private sector in management, finance, organization, and operations. The additional powers and authority are intended to improve cost-effectiveness and timeliness of project delivery, increase revenues, expand the turnpike system's capital program capability, and improve the quality of service to its patrons, while continuing to protect the turnpike system's bondholders and further preserve, expand, and improve the Florida Turnpike System.

Section 70. Section 338.2216, Florida Statutes, is created to read:

338.2216 Florida Turnpike Enterprise; powers and authority.—

(1)(a) In addition to the powers granted to the department, the Florida Turnpike Enterprise has full authority to exercise all powers granted to it under this chapter. Powers shall include, but are not limited to, the ability to plan, construct, maintain, repair, and operate the Florida Turnpike System.

(b) It is the express intention of this part that the Florida Turnpike Enterprise be authorized to plan, develop, own, purchase, lease, or otherwise acquire, demolish, construct, improve, relocate, equip, repair, maintain, operate, and manage the Florida Turnpike System; to expend funds to publicize, advertise, and promote the advantages of using the turnpike system and its facilities; and to cooperate, coordinate, partner, and contract with other entities, public and private, to accomplish these purposes.

(c) The executive director of the turnpike enterprise shall appoint a staff, which shall be exempt from part II of chapter 110. The fiscal functions of the turnpike enterprise, including those arising under chapters 216, 334, and 339, shall be managed by the turnpike enterprise chief financial officer, who shall possess qualifications similar to those of the department comptroller.

(2)(a) The department shall have the authority to employ procurement methods available to the Department of Management Services under chapters 255 and 287 and under any rule adopted under such chapters solely for the benefit of the turnpike enterprise. In order to enhance the effective and efficient operation of the turnpike enterprise, the department may adopt rules for procurement procedures alternative to chapters 255, 287, and 337.

(3)(a) The turnpike enterprise shall be a single budget entity and shall develop a budget pursuant to chapter 216. The turnpike enterprise's budget shall be submitted to the Legislature along with the department's budget.

(b) Notwithstanding the provisions of s. 216.301 to the contrary and in accordance with s. 216.351, the Executive Office of the Governor shall, on July 1 of each year, certify forward all unexpended funds appropriated or provided pursuant to this section for the turnpike enterprise. Of the unexpended funds certified forward, any unencumbered amounts shall be carried forward. Such funds carried forward shall not exceed 5 percent of the total operating budget of the turnpike enterprise. Funds carried forward pursuant to this section may be used for any lawful purpose, including, but not limited to, promotional and market activities, technology, and training. Any certified forward funds remaining undisbursed on December 31 of each year shall be carried forward.

(4) The powers conferred upon the turnpike enterprise under ss. 338.22-338.241 shall be in addition and supplemental to the existing powers of the department and the turnpike enterprise, and these powers shall not be construed as repealing any provision of any other law, general or local, but shall supersede such other laws that are inconsistent with the exercise of the powers provided under ss. 338.22-338.241 and provide a complete method for the exercise of such powers granted.

Section 71. Subsection (4) of section 338.223, Florida Statutes, is amended to read:

338.223 Proposed turnpike projects.—

(4) The department is authorized, with the approval of the Legislature, to use federal and state transportation funds to lend or pay a portion of the operating, maintenance, and capital costs of turnpike projects. ~~Federal and state transportation funds included in an adopted work program, or the General Appropriations Act, for a turnpike project do not have to be reimbursed to the State Transportation Trust Fund, or used in determining the economic feasibility of the proposed project.~~ For operating and maintenance loans, the maximum net loan amount in any fiscal year shall not exceed *1.5* ~~0.5~~ percent of state transportation tax revenues for that fiscal year.

Section 72. Subsection (2) of section 338.227, Florida Statutes, is amended to read:

338.227 Turnpike revenue bonds.—

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the turnpike projects for which such bonds shall have been issued, except as provided in the State Bond Act. Such proceeds shall be disbursed and used as provided by ss. 338.22-338.241 and in such manner and under such restrictions, if any, as the Division of Bond Finance may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. All revenues and bond proceeds from the turnpike system received by the department pursuant to ss. 338.22-338.241, the Florida Turnpike *Enterprise* Law, shall be used only for the cost of turnpike projects and turnpike improvements and for the administration, operation, maintenance, and financing of the turnpike system. No revenues or bond proceeds from the turnpike system shall be spent for the operation, maintenance, construction, or financing of any project which is not part of the turnpike system.

Section 73. Subsection (2) of section 338.2275, Florida Statutes, is amended to read:

338.2275 Approved turnpike projects.—

(2) The department is authorized to use turnpike revenues, the State Transportation Trust Fund moneys allocated for turnpike projects pursuant to s. 338.001, federal funds, and bond proceeds, and shall use the most cost-efficient combination of such funds, in developing a financial plan for funding turnpike projects. The department must submit a report of the estimated cost for each ongoing turnpike project and for each planned project to the Legislature 14 days before the convening of the regular legislative session. Verification of economic feasibility and statements of environmental feasibility for individual turnpike projects must be based on the entire project as approved. Statements of environmental feasibility are not required for those projects listed in s. 12, chapter 90-136, Laws of Florida, for which the Project Development and Environmental Reports were completed by July 1, 1990. ~~All required environmental permits must be obtained before~~ The department may advertise for bids for contracts for the construction of any turnpike project *prior to obtaining required environmental permits*.

Section 74. Section 338.234, Florida Statutes, is amended to read:

338.234 Granting concessions or selling along the turnpike system.—

~~(1)~~ The department may *enter into contracts or licenses with any person for the sale of* ~~grant concessions or sell~~ services or products *or business opportunities on* ~~along~~ the turnpike system*, or the turnpike enterprise may sell services, products, or business opportunities on the turnpike system,* which benefit the traveling public *or provide additional revenue to the turnpike system*. Services*, business opportunities,* and products authorized *to be sold* include, but are not limited to, ~~the sale of~~ motor fuel, *vehicle* towing*,* and *vehicle* maintenance services; ~~the sale of~~ food with attendant nonalcoholic beverages; *lodging, meeting rooms, and other business services opportunities; advertising and other promotional opportunities, which advertising and promotions must be consistent with the dignity and integrity of the state;* ~~the sale of~~ state lottery tickets *sold* by authorized retailers; *games and amusements that* ~~the granting of concessions for amusement devices which~~ operate by the application of skill, not including games of chance as defined in s. 849.16 or other illegal gambling games; ~~the sale of~~ Florida citrus, goods promoting the state*,* or handmade goods produced within the state; *and* ~~the granting of concessions for equipment which provides~~ travel information*,* ~~or~~ tickets, reservations, or other related services~~; and the granting of concessions which provide banking and other business services. The department may also provide information centers on the plazas for the benefit of the public~~.

~~(2) The department may provide an opportunity for governmental agencies to hold public events at turnpike plazas which educate the traveling public as to safety, travel, and tourism.~~

Section 75. Subsection (3) of section 338.235, Florida Statutes, is amended to read:

338.235 Contracts with department for provision of services on the turnpike system.—

(3) The department may enter into contracts or agreements, with or without competitive bidding or procurement, to make available, on a fair, reasonable, nonexclusive, and nondiscriminatory basis, turnpike property and other turnpike structures, for the placement of wireless facilities by any wireless provider of mobile services as defined in 47 U.S.C. s. 153(n) or s. 332(d), and any telecommunications company as defined in s. 364.02 when it is determined to be practical and feasible to make such property or structures available. The department may, without adopting a rule, charge a just, reasonable, and nondiscriminatory fee for placement of the facilities, payable annually, based on the fair market value of space used by comparable communications facilities in the state. The department and a wireless provider may negotiate the reduction or elimination of a fee in consideration of *goods or services* ~~service~~ provided to the department by the wireless provider. All such fees collected by the department shall be deposited directly into the State Agency Law Enforcement Radio System Trust Fund and may be used to construct, maintain, or support the system.

Section 76. Subsection (2) of section 338.239, Florida Statutes, is amended to read:

338.239 Traffic control on the turnpike system.—

(2) Members of the Florida Highway Patrol are vested with the power, and charged with the duty, to enforce the rules of the department. *Approved expenditures* ~~Expenses~~ incurred by the Florida Highway Patrol in carrying out its powers and duties under ss. 338.22-338.241 may be treated as a part of the cost of the operation of the turnpike system, and the Department of Highway Safety and Motor Vehicles shall be reimbursed by the *turnpike enterprise* ~~Department of Transportation~~ for such expenses incurred on the turnpike *system* ~~mainline, which is that part of the turnpike system extending from the southern terminus in Florida City to the northern terminus in Wildwood including all contiguous sections~~. *Florida Highway Patrol Troop K shall be headquartered with the turnpike enterprise and shall be the official and preferred law enforcement troop for the turnpike system. The Department of Highway Safety and Motor Vehicles may, upon request of the executive director of the turnpike enterprise and approval of the Legislature, increase the number of authorized positions for Troop K, or the executive director of the turnpike enterprise may contract with the Department of Highway Safety and Motor Vehicles for additional troops to patrol the turnpike system.*

Section 77. Section 338.241, Florida Statutes, is amended to read:

338.241 Cash reserve requirement.—The budget for the turnpike system shall be so planned as to provide for a cash reserve *at the end of each fiscal year* of not less than *5* ~~10~~ percent of the unpaid balance of all turnpike system contractual obligations, excluding bond obligations, to be paid from revenues.

Section 78. Section 338.251, Florida Statutes, is amended to read:

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

(1) The department is authorized to advance funds for preliminary engineering, traffic and revenue studies, environmental impact studies, financial advisory services, engineering design, right-of-way map preparation, other appropriate project-related professional services, and advanced right-of-way acquisition to expressway authorities, *the turnpike enterprise,* counties, or other local governmental entities that desire to undertake revenue-producing road projects.

(2) No funds shall be advanced pursuant to this section unless the following is documented to the department:

(a) The proposed facility is consistent with the adopted transportation plan of the appropriate metropolitan planning organization and the Florida Transportation Plan.

(b) A proposed 2-year budget detailing the use of the cash advance and a project schedule consistent with the budget.

(3) Prior to receiving any moneys for advance right-of-way acquisition, it shall be shown that such right-of-way will substantially appreciate prior to construction and that savings will result from its advance purchase. Any such request for moneys for advance right-of-way acquisition shall be accompanied by a preliminary engineering study, environmental impact study, traffic and revenue study, and right-of-way maps along with either a negotiated contract for purchase of the right-of-way, such contract to include a clause stating that it is subject to funding by the department or the Legislature, or an appraisal of the subject property for purpose of condemnation proceedings.

(4) Each advance pursuant to this section shall require repayment out of the initial bond issue revenue or, at the discretion of the governmental entity *or the turnpike enterprise* ~~of the facility~~, repayment shall begin no later than 7 years after the date of the advance, provided repayment shall be completed no later than 12 years after the date of the advance. However, such election shall be made at the time of the initial bond issue, and, if repayment is to be made during the time period referred to above, a schedule of such repayment shall be submitted to the department.

(5) No amount in excess of $1.5 million annually shall be advanced to any one governmental entity *or the turnpike enterprise* pursuant to this section without specific appropriation by the Legislature.

(6) Funds may not be advanced for funding final design costs beyond 60 percent completion until an acceptable plan to finance all project costs, including the reimbursement of outstanding trust fund advances, is approved by the department.

(7) The department may advance funds sufficient to defray shortages in toll revenues of facilities receiving funds pursuant to this section for the first 5 years of operation, up to a maximum of $5 million per year, to be reimbursed to this fund within 5 years of the last advance hereunder. Any advance under this provision shall require specific appropriation by the Legislature.

(8) No expressway authority, county, or other local governmental entity*, or the turnpike enterprise,* shall be eligible to receive any advance under this section if the expressway authority, county, or other local governmental entity *or the turnpike enterprise* has failed to repay any previous advances as required by law or by agreement with the department.

(9) Repayment of funds advanced, including advances made prior to January 1, 1994, shall not include interest. However, interest accruing to local governmental entities *and the turnpike enterprise* from the investment of advances shall be paid to the department.

Section 79. Subsection (1) of section 553.80, Florida Statutes, as amended by section 86 of chapter 2000-141, Laws of Florida, is amended to read:

553.80 Enforcement.—

(1) Except as provided in paragraphs *(a)-(f)* ~~(a)-(c)~~, each local government and each legally constituted enforcement district with statutory authority shall regulate building construction and, where authorized in the state agency's enabling legislation, each state agency shall enforce the Florida Building Code required by this part on all public or private buildings, structures, and facilities, unless such responsibility has been delegated to another unit of government pursuant to s. 553.79(9).

(a) Construction regulations relating to correctional facilities under the jurisdiction of the Department of Corrections and the Department of Juvenile Justice are to be enforced exclusively by those departments.

(b) Construction regulations relating to elevator equipment under the jurisdiction of the Bureau of Elevators of the Department of Business and Professional Regulation shall be enforced exclusively by that department.

(c) In addition to the requirements of s. 553.79 and this section, facilities subject to the provisions of chapter 395 and part II of chapter 400 shall have facility plans reviewed and construction surveyed by the state agency authorized to do so under the requirements of chapter 395 and part II of chapter 400 and the certification requirements of the Federal Government.

(d) Building plans approved pursuant to s. 553.77(6) and state-approved manufactured buildings, including buildings manufactured and assembled offsite and not intended for habitation, such as lawn storage buildings and storage sheds, are exempt from local code enforcing agency plan reviews except for provisions of the code relating to erection, assembly, or construction at the site. Erection, assembly, and construction at the site are subject to local permitting and inspections.

(e) Construction regulations governing public schools, state universities, and community colleges shall be enforced as provided in subsection (6).

(f) Construction regulations relating to transportation facilities under the jurisdiction of the turnpike enterprise of the Department of Transportation shall be enforced exclusively by the turnpike enterprise.

The governing bodies of local governments may provide a schedule of fees, as authorized by s. 125.56(2) or s. 166.222 and this section, for the enforcement of the provisions of this part. Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code. The authority of state enforcing agencies to set fees for enforcement shall be derived from authority existing on July 1, 1998. However, nothing contained in this subsection shall operate to limit such agencies from adjusting their fee schedule in conformance with existing authority.

Section 80. *(1) This shall be known as the "Dori Slosberg Act of 2001."*

(2) Notwithstanding the provisions of s. 318.121, Florida Statutes, a board of county commissioners may require, by ordinance, that the clerk of the court collect an additional $3 with each civil traffic penalty, which shall be used to fund driver education programs in public and nonpublic schools. The ordinance shall provide for the board of county commissioners to administer the funds. The funds shall be used for direct educational expenses and shall not be used for administration.

Section 81. *Small Aircraft Transportation System; legislative intent.—*

(1) The Legislature recognizes that the State of Florida has an opportunity to participate with the National Aeronautics and Space Administration, the Federal Aviation Administration, the aircraft industry, and various universities as partners to provide Florida with improved transportation access and mobility for all of its communities, rural and urban alike, by participating in NASA's Small Aircraft Transportation System. The Legislature recognizes that state support can be leveraged with current federal and industry resources to provide an infrastructure that utilizes the state's network of 129 public-use airports and provides a transportation system capable of competing with the automobile in both convenience and affordability.

(2) The Legislature hereby expresses its commitment, through participation in the Small Aircraft Transportation System, to:

(a) Improve travel choices, mobility, and accessibility for the citizens of the state.

(b) Enhance economic growth and competitiveness for the rural and remote communities of the state through improved transportation choices.

(c) Maintain the state's leadership and proactive role in aviation and aerospace through active involvement in advancing aviation technology infrastructure and capabilities.

(d) Take advantage of federal programs that can bring investments in technology, research, and infrastructure capable of enhancing competitiveness and opportunities for industry and workforce development.

(e) Participate in opportunities that can place the state's industries and communities in a first-to-market advantage when developing, implementing, and proving new technologies which have the potential to satisfy requirements for the public good.

(f) Participate as partners with the National Aeronautics and Space Administration, the Federal Aviation Administration, the aircraft industry, local governments, and those universities which comprise the Southeast SATSLab Consortium to implement a Small Aircraft Transportation System infrastructure as a statewide network of airports to support the commitments described in paragraphs (a)-(e).

Section 82. *(1) That portion of I-275 which begins at the Pinellas County end of the Howard Franklin Bridge and, proceeding south, ends at the beginning of the Sunshine Skyway Bridge is designated as the "St. Petersburg Parkway."*

(2) The Department of Transportation is directed to erect suitable markers designating the "St. Petersburg Parkway" as described in subsection (1).

Section 83. *George Crady Bridge designation; markers.—*

(1) The old Nassau Sound Bridge (bridge number 750055) on State Road 105 in Nassau and Duval Counties is hereby redesignated as the "George Crady Bridge."

(2) The Department of Transportation is directed to erect suitable markers designating the "George Crady Bridge" as described in subsection (1).

Section 84. *Doyle Parker Memorial Highway designation; markers.—*

(1) U.S. Highway 17 from Wauchula to Bowling Green is hereby designated as the "Doyle Parker Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Doyle Parker Memorial Highway" as described in subsection (1).

Section 85. *Lynn Haven Parkway designation; markers.—*

(1) That portion of State Road 77 between Baldwin Road and Mowat School Road in the City of Lynn Haven, Bay County, is hereby designated as the "Lynn Haven Parkway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Lynn Haven Parkway" as described in subsection (1).

Section 86. *Bennett C. Russell Florida/Alabama Parkway designation; markers.—*

(1) State Road 87 from the Florida/Alabama border to U.S. Highway 98 in Santa Rosa County is hereby designated as the "Bennett C. Russell Florida/Alabama Parkway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Bennett C. Russell Florida/Alabama Parkway" as described in subsection (1).

Section 87. *Mamie Langdale Memorial Bridge designation; markers.—*

(1) The new U.S. Highway 27 bridge in the City of Moore Haven in Glades County is hereby designated as the "Mamie Langdale Memorial Bridge."

(2) The Department of Transportation is directed to erect suitable markers designating the "Mamie Langdale Memorial Bridge" as described in subsection (1).

Section 88. *Martin Luther King, Jr., Memorial Highway designation; markers.—*

(1) That portion of Highway 41 located in White Springs is hereby designated as the "Martin Luther King, Jr., Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Martin Luther King, Jr., Memorial Highway" as described in subsection (1).

Section 89. *Purple Heart Highway designation; markers.—*

(1) Interstate 75 from the Georgia state line to the city limits of Ocala is hereby designated as the "Purple Heart Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Purple Heart Highway" as described in subsection (1).

Section 90. *Jean-Jacques Dessalines Boulevard designation; markers.—*

(1) State Road 944 on N.W. 54th Street in Miami-Dade County, from the west boundary of State House District 108 approaching U.S. 1, is hereby designated as "Jean-Jacques Dessalines Boulevard."

(2) The Department of Transportation is directed to erect suitable markers designating the "Jean-Jacques Dessalines Boulevard" as described in subsection (1).

Section 91. *Florida Highway Patrol Memorial Highway designation; markers.—*

(1) I-75 from Tampa to the Georgia State Line is hereby designated as the "Florida Highway Patrol Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Florida Highway Patrol Memorial Highway" as described in subsection (1).

Section 92. *Jerome A. Williams Memorial Highway designation; markers.—*

(1) That portion of U.S. Highway 17 from Crescent City south to the Putnam/Volusia County boundary is hereby designated as the "Jerome A. Williams Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Jerome A. Williams Memorial Highway" as described in subsection (1).

Section 93. *Borinquen Boulevard designation; markers.—*

(1) That portion of North 36th Street (State Road 25) from Biscayne Boulevard to N.W. 7th Avenue is hereby designated "Borinquen Boulevard" in honor of Miami-Dade County's Puerto Rican community.

(2) The Department of Transportation is directed to erect suitable markers designating the "Borinquen Boulevard" as described in subsection (1).

Section 94. *Korean War Veterans Memorial Highway designation; markers.—*

(1) Highway 417 in Seminole County is hereby designated as the "Korean War Veterans Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Korean War Veterans Memorial Highway" as described in subsection (1).

Section 95. *Veterans Memorial Highway designation; markers.—*

(1) That portion of State Road 100, beginning at Highway A1A in Flagler County and continuing east to U.S. 1 in Bunnell, is hereby designated as the "Veterans Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the "Veterans Memorial Highway" as described in subsection (1).

Section 96. *Toni Jennings Boulevard designated; Department of Transportation to erect suitable markers.—*

(1) That portion of Semoran Boulevard in the City of Orlando in Orange County beginning at the Bee Line Expressway (State Road 528) on the South to Curry Ford Road on the North is hereby designated as "Toni Jennings Boulevard."

(2) The Department of Transportation is directed to erect suitable markers designating Toni Jennings Boulevard as described in subsection (1).

Section 97. *Ed Fraser Memorial Highway designation; markers.—*

(1) State Road 121, from the Georgia-Florida line in Baker County to the city limits of Lake Butler in Union County is hereby designated as the Ed Fraser Memorial Highway.

(2) The Department of Transportation is hereby directed to erect suitable markers designating the Ed Fraser Memorial Highway as described in subsection (1).

Section 98. *Correctional Officers Memorial Highway designated; markers.—*

(1) That portion of State Road 16 from the northwestern Starke city limits in Bradford County to State Road 121 in Union County is hereby designated as the "Correctional Officers Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating the Correctional Officers Memorial Highway as described in subsection (1).

Section 99. *"Steven Cranman Boulevard" and "Ethel Beckford Boulevard" designated; Department of Transportation to erect suitable markers.—*

(1) That portion of U.S. 1, between S.W. 136th Street and S.W. 186th Street in Miami-Dade County is hereby designated as Steven Cranman Boulevard. The Department of Transportation is directed to erect suitable markers designating Steven Cranman Boulevard as described in this subsection.

(2) That portion of S.W. 186th Street between U.S. 1 and S.W. 107th Avenue in Miami-Dade County is hereby designated as Ethel Beckford Boulevard. The Department of Transportation is directed to erect suitable markers designating Ethel Beckford Boulevard as described in this subsection.

Section 100. *"Phicol Williams Boulevard" designated; Department of Transportation to erect suitable markers.—*

(1) That portion of State Road 5 (U.S. 1) between S.W. 312th Street and S.W. 328th Street in Miami-Dade County is hereby designated as Phicol Williams Boulevard.

(2) The Department of Transportation is directed to erect suitable markers designating Phicol Williams Boulevard as described in subsection (1).

Section 101. *Section 316.3027 and subsection (3) of section 316.610, Florida Statutes, are repealed.*

Section 102. This act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 3 through page 10, line 27,
remove from the title of the bill: all of said lines,

and insert in lieu thereof: amending s. 20.23, F.S.; revising language with respect to the organization of the department; deleting responsibilities assigned to the secretary; providing that the secretary or his or her designee shall submit a report on major actions at each meeting of the Florida Transportation Commission; revising language with respect to assistant secretaries; creating the Office of Comptroller; deleting language with respect to the inspector general and comptroller; changing the Turnpike District into a turnpike enterprise; exempting the turnpike enterprise from department policies, procedures, and standards, subject to the Secretary of Transportation's decision to apply such requirements; giving the secretary authority to promulgate rules that will assist the turnpike enterprise in using best business practices; amending s. 110.205, F.S.; correcting cross references, to conform; amending s. 163.3180, F.S.; extending a deadline for development on certain roads; amending s. 189.441, F.S.; removing an exemption to s. 287.055, F.S.; amending s. 206.46, F.S.; revising language with respect to the State Transportation Trust Fund; increasing the debt service cap; amending s. 255.20, F.S.; exempting certain transportation projects for certain competitive bidding requirements; amending s. 287.005, F.S.; increasing the amount defining a continuing contract; amending s. 311.09, F.S.; directing seaports to abide by the provisions of s. 287.055, F.S., related to competitive negotiation; amending s. 315.031, F.S.; authorizing certain entertainment expenditures for seaports; amending s. 316.302, F.S.; revising a date concerning commercial motor vehicles to conform to federal regulations; amending s. 316.3025, F.S.; updating a cross reference to federal trucking regulations; amending s. 316.515, F.S.; deleting a requirement for a department permit with respect to the height of automobile transporters; amending s. 316.535, F.S.; adding weight requirements for certain commercial trucks; amending s. 316.545, F.S.; correcting a cross reference; amending s. 330.27, F.S.; revising definitions relating to aviation; providing definitions; amending s. 330.29, F.S.; clarifying the department's rulemaking authority with respect to airports; amending s. 330.30, F.S.; eliminating airport license fees; revising language with respect to the department's site approval process; eliminating on-site inspections of private airports; creating a registration process for private airports; providing conditions; deleting obsolete language; providing exceptions; amending s. 330.35, F.S.; deleting obsolete language with respect to airport zoning; amending s. 330.36, F.S.; providing conditions under which municipalities may prohibit or otherwise regulate seaplanes; amending s. 331.308, F.S.; revising membership of the board of supervisors of the Spaceport Florida Authority; amending s.332.004, F.S.; adding off-airport noise mitigation projects to the projects eligible for federal and state matching funds; amending s. 334.044, F.S.; authorizing the department to expend promotional money on scenic highway projects; authorizing the department to delegate its drainage permitting responsibilities to other governmental entities under certain circumstances; amending s. 334.193, F.S.; providing for employee bidding by department employees; amending s. 334.30, F.S.; clarifying existing program for public-private transportation projects; specifying legislative approval for certain projects; specifying notice and selection requirements for projects under this section; allowing Internal Revenue Service Code chapter 63-20 corporations to participate in these public-private transportation projects; providing conditions for using loans from Toll Facilities Revolving Trust Fund; deleting obsolete language; creating s. 335.066, F.S.; creating the Safe Paths to Schools Program; directing the department to establish the program and to authorize establishment of a grant program for purposes of funding the program; authorizing the department to adopt rules to administer the program; amending s. 335.141, F.S.; eliminating the requirement that the department regulate all train speeds; amending s. 336.41, F.S.; clarifying that a contract already qualified by the Department of Transportation is presumed qualified to bid on county road projects; amending s. 336.44, F.S.; replacing the term "competent" with "responsible bidder"; amending s. 337.107, F.S.; authorizing the department to enter into design-build contracts that include right-of-acquisition services; amending s. 337.11, F.S.; raising the cap on certain contracts into which the department can enter without first obtaining bids; adding enhancement projects to the types of projects that can be combined into a design-build contract; specifying that construction on design-build projects may not begin until certain conditions have been met; amending s. 337.14, F.S.; clarifying that contractors qualified by the Department of Transportation are presumed qualified to bid on projects for expressway authorities; amending s. 337.401, F.S.; providing that for projects on public roads or rail corridors under the department's jurisdiction, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit; amending s. 339.08, F.S.; clarifying language with respect to the use of moneys in the State Transportation Trust Fund; amending s. 339.12, F.S.; raising the cap on the amount of money that a local government can advance the

department for state road projects; providing that local governments which perform projects for the department are compensated promptly; amending s. 339.135, F.S.; conforming language with respect to the tentative work program; extending the concurrency deadline for certain department road projects; conforming a reference to the turnpike district; amending s. 339.137, F.S.; revising definitions; amending criteria for program eligibility; directing the advisory council to develop methodology for ranking and prioritizing project proposals; directing the Florida Transportation Commission to review the proposed project list before submittal to the Legislature; amending s. 341.051, F.S.; deleting obsolete language; amending s. 341.302, F.S.; deleting obsolete language; amending s. 348.0003, F.S.; giving a county governing body authority to set qualifications, terms of office, and obligations for the members of expressway authorities within their jurisdictions; amending ss. 348.0012, 348.754, 348.7543, 348.7544, 348.7545, 348.755, and 348.765, F.S.; giving the Orlando-Orange County Expressway Authority the ability to issue bonds, rather than issuance through the state Division of Bond Finance; amending s. 348.565, F.S.; adding the Leroy Selmon Crosstown Expressway connector to the legislatively approved list of expressway projects; amending s. 373.4137, F.S.; allowing transportation authorities created pursuant to chs. 348 and 349, F.S., to create environmental impact inventories and participate in a mitigation program to offset adverse impacts caused by their transportation projects; amending s. 373.414, F.S.; providing for legislative review of the uniform wetland mitigation assessment method rule; amending s. 475.011, F.S.; granting exemption from Florida licensing for certain firms or their employees under contract with the state or a local governmental entity to provide right-of-way acquisition services for property subject to condemnation; amending s. 479.15, F.S.; revising language with respect to harmony of regulations concerning lawfully erected signs; creating s. 479.25, F.S.; authorizing local governments to enter into agreements which allow outdoor signs to be erected above sound barriers; creating s. 70.20, F.S.; creating process for governmental entities and sign owners to enter into relocation and reconstruction agreements related to outdoor advertising signs; providing for just compensation to sign owners under certain conditions; amending s. 496.425, F.S.; redefining the term "facility"; creating s. 496.4256, F.S.; providing that a governmental entity or authority that owns or operates welcome centers, wayside parks, service plazas, or rest areas on the state highway system are not required to issue a permit to, or grant access to, any person for the purpose of soliciting funds; repealing s. 316.3027, F.S.; relating to identification requirements on certain commercial motor vehicles; amending s. 337.408, F.S.; revising language with respect to the regulation of benches, transit shelters, and waste disposal receptacles within rights-of-way; providing for regulation of street light poles; amending s. 380.0651, F.S.; excluding certain wholesaling facilities from development-of-regional-impact review; deleting provision which provides the development-of-regional-impact statewide guidelines and standards for airports; amending s. 768.28, F.S.; providing that certain operators of rail services and providers of security for rail services are agents of the state for certain purposes; providing for indemnification; repealing s. 316.610(3), F.S.; relating to certain inspections of certain commercial motor vehicles; amending s. 337.025, F.S.; eliminating cap on innovative highway projects for the turnpike enterprise; amending s. 337.11, F.S.; providing an exemption for a turnpike enterprise project; amending s. 338.22, F.S.; redesignating the Florida Turnpike Law as the Florida Turnpike Enterprise Law; amending s. 338.221, F.S.; redefining the term "economically feasible" as used with respect to turnpike projects; creating s. 338.2215, F.S.; providing legislative findings, policy, purpose, and intent for the Florida Turnpike Enterprise; creating s. 338.2216, F.S.; prescribing the power and authority of the turnpike enterprise; amending s. 338.223, F.S.; increasing the maximum loan amount for the turnpike enterprise; amending ss. 338.165 and 338.227, F.S.; conforming provisions; amending s. 338.2275, F.S.; authorizing the turnpike enterprise to advertise for bids for contracts prior to obtaining environmental permits; amending s. 338.234, F.S.; authorizing the turnpike enterprise to expand business opportunities; amending s. 338.235, F.S.; authorizing the consideration of goods instead of fees; amending s. 338.239, F.S.; providing that approved expenditure to the Florida Highway Patrol be paid by the turnpike enterprise; amending s. 338.241, F.S.; lowering the required cash reserve for the turnpike enterprise; amending s. 338.251, F.S.; conforming provisions; amending s. 553.80, F.S.; providing for self-regulation; amending s. 333.06, F.S.; requiring each licensed publicly owned and operated airport to prepare an airport master plan; providing notice to affected local governments with respect thereto; amending s. 380.06, F.S., relating to developments of regional impact; removing provisions which specify that certain changes in airport facilities or increases in the storage capacity for chemical or petroleum storage facilities constitute a substantial deviation and require further development-of-regional-impact review; exempting certain proposed facilities for the storage of any petroleum product from development-of-regional-impact requirements; amending ss. 163.3180 and 331.303, F.S.; correcting references; providing application with respect to airports and petroleum storage facilities which have received a development-of-regional-impact development order, or which have an application for development approval or notification of proposed change pending, on the effective date of the act; providing for severability; authorizing a board of county commissioners to require by ordinance that an additional amount be collected with each civil fine and used to fund traffic education and awareness programs; designating a number of roads and bridges in honor of certain individuals; providing an effective date.

Rep. Russell moved the adoption of the amendment.

Representative(s) Heyman offered the following:

(Amendment Bar Code: 135173)

Amendment 1 to Amendment 8 (with title amendment)—On page 1, between lines 16 & 17,

insert:

Section 1. Section 316.655, Florida Statutes, is amended to read:

316.655 Penalties*; enhanced fines in certain circumstances*.—

(1) A violation of any of the provisions of this chapter, except those violations with a specific criminal charge, as enumerated in s. 318.17, are infractions, as defined in s. 318.13(3). Except for violations of s. 316.302, infractions of this chapter are punishable as provided in chapter 318. Any person convicted of a violation of or otherwise found to be in violation of s. 316.063, s. 316.3025, s. 316.516, s. 316.545, or s. 316.550 shall be punished as specifically provided in that section.

(2) Drivers convicted of a violation of any offense prohibited by this chapter or any other law of this state regulating motor vehicles may have their driving privileges revoked or suspended by the court if the court finds such revocation or suspension warranted by the totality of the circumstances resulting in the conviction and the need to provide for the maximum safety for all persons who travel on or who are otherwise affected by the use of the highways of the state. In determining whether suspension or revocation is appropriate, the court shall consider all pertinent factors, including, but not limited to, such factors as the extent and nature of the driver's violation of this chapter, the number of persons killed or injured as the result of the driver's violation of this chapter, and the extent of any property damage resulting from the driver's violation of this chapter.

(3) Any operator of a motor vehicle who commits a moving violation in violation of this chapter, when the operator is engaged in a secondary activity which results in driver distraction, shall be subject to penalty enhancement of double the amount of the fine established under s. 318.18. The amount of the enhanced fine shall be distributed as provided for in s. 318.211.

Section 2. Section 318.211, Florida Statutes, is created to read:

318.211 Enhanced penalties for certain violations of chapter 316; distribution.—Moneys collected for violations described in s. 316.655(3) shall be distributed as follows:

(1) Forty-five percent of the enhanced penalty amount shall be deposited in the Brain and Spinal Cord Injury Rehabilitation Trust Fund for the purposes set forth in s. 381.79, with funds distributed evenly between the University of Miami's Miami Project to Cure Paralysis, the

University of South Florida's Spinal Cord and Head Injury Program, and the University of Florida's McKnight Brain Institute's Neurotrauma Program.

(2) Fifteen percent of the enhanced penalty amount shall be paid to the Department of Children and Family Services for deposit into the Child Welfare Training Trust Fund pursuant to s. 402.40, in memory of Helen Marie Witty.

(3) Ten percent of the enhanced penalty amount shall be deposited in the Transportation Disadvantaged Trust Fund created in Part 1 of Chapter 427, and used as provided therein.

(4) Ten percent of the enhanced penalty amount shall be deposited into the County Article V Trust Fund of the county in which the penalty was collected.

(5) Ten percent of the enhanced penalty amount shall be deposited in the endowment fund of the Florida Endowment Foundation for Vocational Rehabilitation established pursuant to s. 413.615.

(6) Ten percent of the enhanced penalty amount shall be deposited in the Criminal Justice Standards and Training Trust Fund created pursuant to s. 943.25(2).

And the title is amended as follows:

On page 147, between lines 18 and 19,

insert: amending s. 316.655, F.S.; providing for enhanced penalties for certain violations of chapter 316, F.S.; creating s. 318.211, F.S.; providing for the disposition of such enhanced penalties;

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

Representative(s) Brown offered the following:

(Amendment Bar Code: 871913)

Amendment 2 to Amendment 8 (with title amendment)—On page 94, between lines 24 and 25 of the amendment

insert:

Section 49. Subsection (18) of section 373.414, Florida Statutes, is amended to read:

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

(18) The department and each water management district responsible for implementation of the environmental resource permitting program shall develop a uniform wetland mitigation assessment method no later than October 1, 2001. The department shall adopt the uniform wetland mitigation assessment method by rule no later than January 31, 2002. *Rules promulgated pursuant to this subsection shall be submitted to the President of the Senate and the Speaker of the House of Representatives for review by the Legislature no later than 30 days prior to the 2002 regular session, and shall become effective only after legislative review. In its review, the Legislature may reject, modify, or take no action relative to such rules.* Once the department adopts the uniform wetland mitigation assessment method by rule, the uniform wetland mitigation assessment method shall be binding on the department, the water management districts, local governments, and any other governmental agencies and shall be the sole means to determine mitigation needed to offset adverse impacts and to award and deduct mitigation bank credits. A water management district and any other governmental agency subject to chapter 120 may apply the uniform wetland mitigation assessment method without the need to adopt it pursuant to s. 120.54. It shall be a goal of the department and water management districts that the uniform wetland mitigation assessment method developed be practicable for use within the timeframes provided in the permitting process and result in a consistent process for determining mitigation requirements. It shall be recognized that any such method shall require the application of reasonable scientific judgment. The uniform wetland mitigation assessment method must determine the value of functions provided by wetlands and other surface waters considering the current conditions of these areas, utilization by fish and wildlife, location, uniqueness, and hydrologic connection, in addition to the factors listed in s. 373.4136(4). The uniform wetland mitigation assessment method shall also account for the expected time-lag associated with offsetting impacts and the degree of risk associated with the proposed mitigation. The uniform wetland mitigation assessment method shall account for different ecological communities in different areas of the state. In developing the uniform wetland mitigation assessment method, the department and water management districts shall consult with approved local programs under s. 403.182 which have an established wetland mitigation program. The department and water management districts shall consider the recommendations submitted by such approved local programs, including any recommendations relating to the adoption by the department and water management districts of any uniform wetland mitigation methodology that has been adopted and used by an approved local program in its established wetland mitigation program. Environmental resource permitting rules may establish categories of permits or thresholds for minor impacts under which the use of the uniform wetland mitigation assessment method will not be required. The application of the uniform wetland mitigation assessment method is not subject to s. 70.001. In the event the rule establishing the uniform wetland mitigation assessment method is deemed to be invalid, the applicable rules related to establishing needed mitigation in existence prior to the adoption of the uniform wetland mitigation assessment method, including those adopted by a county which is an approved local program under s. 403.182, and the method described in paragraph (b) for existing mitigation banks, shall be authorized for use by the department, water management districts, local governments, and other state agencies.

(a) In developing the uniform wetland mitigation assessment method, the department shall seek input from the United States Army Corps of Engineers in order to promote consistency in the mitigation assessment methods used by the state and federal permitting programs.

(b) An entity which has received a mitigation bank permit prior to the adoption of the uniform wetland mitigation assessment method shall have impact sites assessed, for the purpose of deducting bank credits, using the credit assessment method, including any functional assessment methodology, which was in place when the bank was permitted; unless the entity elects to have its credits redetermined, and thereafter have its credits deducted, using the uniform wetland mitigation assessment method.

And the title is amended as follows:

On page 155, line 16 of the amendment
remove: all of said line

and insert in lieu thereof: thereto; amending s. 373.414, F.S.; providing for legislative review of the uniform wetland mitigation assessment method rule; amending s. 475.011, F.S.; amending s. 380.06, F.S., relating to

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

Reconsideration

On motion by Rep. Bennett, the House reconsidered the vote by which **Amendment 1 to Amendment 8** was adopted. The question recurred on the adoption of the amendment to the amendment, which failed of adoption.

Representative(s) Gardiner offered the following:

(Amendment Bar Code: 764783)

Amendment 3 to Amendment 8 (with title amendment)—On page 54, between lines 16 and 17,

insert:

Section 27. Section 336.12, Florida Statutes, is amended to read:

336.12 Closing and abandonment of roads; termination of easement; conveyance of fee*; optional conveyance for gated communities*.—

(1) Except as otherwise provided in subsection (2), the act of any commissioners in closing or abandoning any such road, or in renouncing or disclaiming any rights in any land delineated on any recorded map as a road, shall abrogate the easement theretofore owned, held, claimed or used by or on behalf of the public and the title of fee owners shall be freed and released therefrom; and if the fee of road space has been vested in the county, same will be thereby surrendered and will vest in the abutting fee owners to the extent and in the same manner as in case of termination of an easement for road purposes.

(2) The governing body of the county may abandon the roads and rights-of-way dedicated in a recorded residential subdivision plat and simultaneously convey the county's interest in such roads, rights-of-way, and appurtenant drainage facilities to a homeowners' association for the subdivision, if the following conditions have been met:

(a) The homeowners' association has requested the abandonment and conveyance in writing for the purpose of converting the subdivision to a gated neighborhood with restricted public access.

(b) No fewer than four-fifths of the owners of record of property located in the subdivision have consented in writing to the abandonment and simultaneous conveyance to the homeowners' association.

(c) The homeowners' association is both a corporation not for profit organized and in good standing under chapter 617, and a "homeowners' association" as defined in s. 720.301(7) with the power to levy and collect assessments for routine and periodic major maintenance and operation of street lighting, drainage, sidewalks, and pavement in the subdivision.

(d) The homeowners' association has entered into and executed such agreements, covenants, warranties, and other instruments; has provided, or has provided assurance of, such funds, reserve funds, and funding sources; and has satisfied such other requirements and conditions as may be established or imposed by the county with respect to the ongoing operation, maintenance, and repair and the periodic reconstruction or replacement of the roads, drainage, street lighting, and sidewalks in the subdivision after the abandonment by the county.

Upon abandonment of the roads and rights-of-way and the conveyance thereof to the homeowners' association, the homeowners' association shall have all the rights, title, and interests in the roads and rights-of-way, including all appurtenant drainage facilities, as were previously vested in the county. Thereafter, the homeowners' association shall hold the roads and rights-of-way in trust for the benefit of the owners of the property in the subdivision, and shall operate, maintain, repair, and, from time to time, replace and reconstruct the roads, street lighting, sidewalks, and drainage facilities as necessary to ensure their use and enjoyment by the property owners, tenants, and residents of the subdivision and their guests and invitees.

And the title is amended as follows:

On page 150, line 21, after "speeds;" of the amendment

insert: amending s. 336.12, F.S.; creating a process for homeowners' associations to be conveyed roads and rights-of-way abandoned by a county governing board for the purpose of converting subdivisions into gated neighborhoods;

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

THE SPEAKER IN THE CHAIR

Representative(s) Greenstein and Frankel offered the following:

(Amendment Bar Code: 852379)

Amendment 4 to Amendment 8 (with title amendment)—On page 113, line 31 through page 118, line 23,
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 59. *(1) The Legislature recognizes that municipalities, counties, and other governmental entities are empowered to alter or remove signs along roadways for a public purpose and with just compensation, and that such compensation includes amortization or monetary compensation. Further, the Legislature recognizes compensation by amortization may burden, restrict, or limit private property rights. The Legislature therefore determines that there is an important state interest in balancing private property owners' rights and the responsibility of municipalities, counties, and other governmental entities to enhance the safety and aesthetics of their communities.*

(2) The Sign Valuation Task Force is created and shall be staffed by the Department of Transportation. The task force is charged with developing formulas for providing just compensation through monetary compensation or amortization periods. The task force shall consider whether amortization periods should include a premium in recognition of a potential burden upon private property owners' rights due to the private property owners being compelled by amortization to earn their own compensation.

(a) The task force shall be composed of five members. The President of the Senate and the Speaker of the House of Representatives shall each appoint two members. The remaining member shall be appointed by the Secretary of Transportation and shall be an appraiser who is a member of the Appraisal Institute. The task force members shall select a chair of the task force. All appointments must be made by July 15, 2001. Three members of the task force shall constitute a quorum, and the vote of three members shall be necessary for any action taken by the task force. The task force may meet upon the constitution of a quorum.

(b) Upon the appointment of the members, the task force shall schedule an organizational meeting to be held no later than August 1, 2001. Thereafter, the task force shall meet at least three times, preferably at various locations throughout the state. The task force may meet by teleconference.

(c) Members of the task force from the private sector are not entitled to per diem or reimbursement for travel expenses; however, members of the task force from the public sector are entitled to reimbursement, if any, from their respective agencies. Members of the task force may request staff assistance from the Department of Transportation as necessary.

(d) The task force shall conduct an in-depth review of sign valuation methods and methods of providing compensation. In its review, the task force shall analyze existing laws of this state, of other states, and of the Federal Government, including existing case law, all sign appraisal valuation methods, methods of providing compensation, and other related issues.

(e) The task force may conduct meetings, hearings, and workshops in Tallahassee and at other locations around the state, and may take evidence, testimony and debate at the meetings, hearings, and workshops. The task force must keep electronic recordings of the meetings, hearings, and workshops. Such recordings shall be preserved under chapters 119 and 257, Florida Statutes.

(f) The task force shall submit its findings and recommendations in the form of a written report to the President of the Senate, the Speaker of the House of Representatives, and the Governor by December 15, 2001. Upon submission of the written report, the task force shall cease to exist.

And the title is amended as follows:

On page 153, lines 8-14, of the amendment
remove: all of said lines

and insert in lieu thereof: barriers; creating the Sign Valuation Task Force; providing for appointment of members; providing duties and responsibilities; providing for a report and termination of the task force upon submission thereof; amending s. 496.425, F.S.;

Rep. Greenstein moved the adoption of the amendment to the amendment, which failed of adoption.

Representative(s) Greenstein and Seiler offered the following:

(Amendment Bar Code: 314337)

Amendment 5 to Amendment 8—On page 116, line 16 through page 117, line 1,
remove from the amendment: all of said lines

and insert in lieu thereof: *(6) A municipality, county or other governmental entity may not condition the issuance or continued effectiveness of a development order, as defined in s. 163.3164(7) upon the removal or alteration of a lawfully erected sign unless the maintenance of a lawfully erected sign is inconsistent with the zoning designation or change sought by the owner of the property on which the sign has been erected.*

(7) A municipality, county, or other governmental entity who is voluntarily acquiring property upon which a sign owner has the legal right to maintain a lawfully erected sign, through a lease or other contractual arrangement, may not force, coerce, or otherwise require the property owner to violate the terms of the lease or contractual arrangement to cause the removal of the sign. This section shall not be construed to prohibit a municipality, county or other governmental agency from providing notice as required pursuant to s. 73.015, engaging in generally accepted real estate practices for the purchase of real property, or from having any sign removed, after appropriate notice to the sign owner, when title to the property has been acquired by the municipality, county or other governmental entity.

Rep. Seiler moved the adoption of the amendment to the amendment, which failed of adoption.

Representative(s) Greenstein offered the following:

(Amendment Bar Code: 051191)

Amendment 6 to Amendment 8—On page 118, between lines 23 & 24,

insert:

(13) This section shall not apply to a charter county with a population of 1.6 million or greater which is not a county defined in s. 125.011(1), 85 percent of more of the county's residents reside in incorporated areas, and the charger county enacted an ordinance regulating signs as described in subsection (9) within the unincorporated area of the county prior to January 1, 2001. Nothing herein is intended to abrogate the rights any sign owner may have to challenge the county's enforcement of its sign ordinance or the removal of any lawfully erected sign after the application amortization period established in the charter county's ordinance has expired.

Rep. Greenstein moved the adoption of the amendment to the amendment, which failed of adoption.

The question recurred on the adoption of **Amendment 8**, as amended, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/CS/HB 1053. The vote was:

Session Vote Sequence: 352

Yeas—108

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

Nays—6

Berfield	Brummer	Cusack	Justice
Bilirakis	Carassas		

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

CS/CS/HB 807—A bill to be entitled An act relating to the Department of Highway Safety and Motor Vehicles; amending s. 320.08056, F.S.; increasing the fee for the Florida educational license plate; creating s. 860.146, F.S.; defining the terms "fake airbag" and "junk-filled airbag compartment"; prohibiting the sale, purchase, or installation of fake airbags or junk-filled airbag compartments; providing criminal penalties; amending s. 322.056, F.S.; authorizing the court to direct the Department of Highway Safety and Motor Vehicles to issue a driver's license restricted to business or employment purposes only to certain persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; amending s. 316.003, F.S.; providing that certain vehicles of the Department of Health are authorized emergency vehicles; providing that a motorized scooter is not a motor vehicle for traffic control purposes; creating a definition of the term motorized scooter; amending s. 316.006, F.S.; authorizing the installation of multiparty stop signs on certain roads; providing guidelines for the installation of such signage; amending s. 316.1951, F.S.; revising provisions related to parking vehicles to display for sale; amending s. 316.1975, F.S.; exempting operators of solid waste and recovered materials vehicles from provisions regarding unattended motor vehicles; amending s. 316.2065, F.S.; providing motorized scooter operating regulations; amending s. 316.228, F.S.; requiring strobe lights to be placed on the exterior of a commercial vehicle transporting unprocessed forest products extending more than 4 feet beyond the rear of the vehicle; providing an alternate method for placing strobe lights in certain instances; requiring the use of a red flag on the load; amending s. 316.2397, F.S.; authorizing the emergency response vehicles of the Department of Health to use red flashing lights; amending s. 316.520, F.S.; clarifying that a violation of a provision governing loads on vehicles is a moving rather than a nonmoving violation; exempting certain vehicles carrying agricultural products; amending s. 316.640, F.S.; revising the powers and duties of traffic crash investigation officers; amending s. 316.650, F.S.; requiring the issuance of a copy of the traffic school reference guide with traffic citations under certain circumstances; amending s. 318.14, F.S.; deleting reference to a restriction on the number of elections a person may make to attend a basic driver improvement course; amending s. 318.1451, F.S.; providing an assessment fee with respect to driver improvement courses for persons who are ordered by the court to attend and for certain other violations; providing traffic school reference guide requirements; amending s. 322.0261, F.S.; deleting reference to a time period and increasing the amount of damage required with respect to a crash for the screening of certain crash reports; requiring the Department of Highway Safety and Motor Vehicles to approve and regulate certain courses for driver improvement schools; creating s. 322.02615, F.S.; providing for mandatory driver improvement courses for certain violations; amending s. 319.001, F.S.; providing definitions; amending s. 319.14, F.S.; authorizing the Department of Highway Safety and Motor

Vehicles to place a decal on a rebuilt vehicle so as to clarify its identity; providing a penalty for the removal of the decal; amending s. 319.22, F.S.; providing a limitation on an action challenging the validity of a certificate of title issued pursuant to ch. 319, F.S.; amending s. 319.23, F.S.; providing a limitation on the issuance of certain titles; amending s. 319.27, F.S.; including reference to ownership interest with respect to liens on motor vehicles or mobile homes; providing special requirements with respect to an ownership interest which is different from that shown on an application for certificate of title; creating s. 319.275, F.S.; providing for interpleader actions for law enforcement officers alleging possession of a stolen motor vehicle by a good faith purchaser or person duly issued a certificate of title; amending s. 319.32, F.S.; clarifying fees for recording of liens and ownership interests; amending s. 319.323, F.S.; revising language with respect to expedited service on title transfers; amending s. 319.23, F.S.; conforming the requirements for the transfer of ownership on an antique vehicle to that of any other motor vehicle; amending s. 319.28, F.S.; deleting the requirement that a copy of a contract for processing an application for title based on a contractual default be provided; amending s. 319.30, F.S.; clarifying the major component parts of a motor vehicle; amending s. 320.01, F.S.; conforming the length limitation for a motor home to that established in ch. 316, F.S.; providing that a motorized scooter is not a motor vehicle for registration purposes; amending s. 320.02, F.S.; requiring application forms for motor vehicle registration and renewal of registration to include language permitting a voluntary contribution to certain organizations; amending s. 320.023, F.S.; requiring certain organizations receiving voluntary check-off contributions to notify the department under certain circumstances and to meet specified requirements; conforming the section to the Florida Single Audit Act; requiring organizations seeking authorization to establish a voluntary check-off contribution on a motor vehicle registration application to conform to the requirements of ch. 496, F.S.; conforming this section to the Florida Single Audit Act; amending s. 320.025, Florida Statutes, conforming the vessel registration law to the motor vehicle registration law; requiring a decal to be affixed to a vessel that is registered under a fictitious name and operated by any law enforcement agency; amending s. 320.05, F.S.; conforming the vessel registration law to the motor vehicle registration law; providing instructions for the release of information regarding a vessel to the public; amending s. 320.055, F.S.; correcting the registration period for nonapportioned vehicles; amending s. 320.06, F.S.; providing for the placement of only one decal rather than two on a license plate; amending s. 320.072, F.S.; reducing the timeframe a registrant can use a previous license plate for the initial registration fee exemption; amending s. 320.0805, F.S.; reducing the timeframe for a personalized license plate to remain out of circulation prior to reassignment; amending s. 320.08056, F.S.; requiring certain organizations to notify the department under certain circumstances; including two more colleges to the discontinuance exemptions provided for collegiate specialty license plates; amending s. 320.08062, F.S.; conforming this section to the Florida Single Audit Act; amending s. 320.083, F.S.; increasing the weight restriction for a private-use vehicle so as to be eligible to apply for the Amateur Radio Operator specialty license plate; amending s. 320.089, F.S.; increasing the weight restriction for a private-use vehicle so as to be eligible to apply for the EX-POW or Purple Heart specialty license plate; amending s. 320.18, F.S.; providing for cancellation of license plates and fuel use tax decals for failure to pay motor carrier weight and safety violation penalties; amending s. 320.27, F.S.; redefining the term "motor vehicle auction"; deleting the requirement for a licensee to have the certificate of title or ownership indicia in his or her possession at an auction; deleting a requirement for establishing a pattern of wrongdoing; revising requirements for denial, suspension, or revocation of a motor vehicle dealer license; amending s. 320.60, F.S.; revising definitions used in ss. 320.61-320.70, F.S.; amending s. 320.61, F.S.; amending procedures to be followed when a complaint of unfair cancellation of a dealer agreement has been made by a motor vehicle dealer against a licensee; defining the term "final decision"; amending s. 320.64, F.S.; providing penalties and remedies for violations; deleting subsections (13) and (16); amending subsection (18); creating subsections (22) through (32) and renumbering sections; amending s. 320.641, F.S.; providing procedures relating to discontinuations, cancellations, nonrenewals, modifications, and replacements of franchise agreements; amending s. 320.643, F.S.; amending provisions relating to the transfer, assignment, or sale of franchise agreements; amending s. 320.645, F.S.; amending provisions relating to restrictions upon a licensee's owning a dealership; providing for "dealer development arrangements"; providing exceptions; amending s. 320.699, F.S.; amending procedures for administrative hearings; creating s. 320.6991; providing for severability; amending s. 320.691 F.S.; creating the Automobile Dealers Industry Advisory Board; amending s. 322.01, F.S.; providing that a motorized scooter is not a motor vehicle for drivers' licensing purposes; amending s. 322.05, F.S.; correcting a statutory reference regarding the requirements for an individual under 18 years of age to apply for a driver's license; amending s. 322.081, F.S.; requiring certain organizations receiving voluntary check-off contributions to notify the department under certain circumstances and to meet specified requirements; conforming the section to the Florida Single Audit Act; requiring organizations seeking authorization to establish a voluntary contribution on a motor vehicle registration to register with the Department of Agriculture and Consumer Services; amending s. 322.095, F.S.; requiring the Department of Highway Safety and Motor Vehicles to approve and regulate certain courses for driver improvement schools; creating s. 322.222, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to hold a hearing when an individual's driver's license has been suspended or revoked due to medical reasons; amending s. 322.25, F.S.; correcting a cross reference; amending s. 322.2615, F.S.; complying with the USDOT's drunk driving prevention incentive program; reducing the timeframe for a temporary permit that is allotted when an individual is charged with driving with an unlawful blood-alcohol level; amending s. 322.27, F.S.; clarifying the time period for a driver's license revocation of a habitual traffic offender; amending s. 322.28, F.S.; deleting obsolete language regarding the revocation of a driver's license; repealing s. 322.282, F.S., relating to the procedure when the court revokes or suspends license or driving privilege and orders reinstatement; amending s. 322.292, F.S.; adding the requirement that DUI programs must be governmental programs or not-for-profit corporations; amending s. 322.61, F.S.; complying with the Federal Motor Carrier Safety Regulations; adding two more violations for which a commercial motor vehicle may be disqualified of driving privileges; amending s. 322.64, F.S.; reducing the timeframe for a temporary permit allotted when an individual holding a commercial driver's license is charged with an unlawful blood-alcohol level; repealing s. 322.331, F.S., relating to the reinstatement of a license of a habitual traffic offender; creating the Driver Licensing Study Commission within the Department of Highway Safety and Motor Vehicles; providing for membership and appointment; providing for staff; providing for duties of the commission; providing for dissolution of the commission upon submission of a required report; providing an appropriation; amending s. 324.091, F.S.; providing for electronic access to vehicle insurance information; amending s. 328.01, F.S.; deleting the requirement for a copy of a contract upon which a claim of ownership of a vessel is made on a contractual default; amending s. 328.42, F.S.; authorizing the department to deny or cancel any vessel registration, license plate, or fuel use decal when given a dishonored check by the customer; amending s. 328.56, F.S.; deleting the terms "commercial" and "recreational" when referring to vessels operated on the waters of this state; amending s. 328.72, F.S.; deleting the requirements for the transfer of ownership of an antique vessel; amending s. 328.76, F.S.; providing for the appropriation allotted for fiscal year 2000-2001 to be deposited into the Highway Safety Operating Trust Fund; amending s. 713.78, F.S.; adding the insurance company to the list of individuals to be contacted when a vehicle has been towed; providing storage periods before the expiration of which certain salvaged vehicles may not be sold; repealing s. 715.05, F.S., relating to the reporting of unclaimed motor vehicles; amending ss. 681.1096 and 681.1097, F.S.; revising program requirements for the Pilot RV Mediation and Arbitration program; amending s. 681.115, F.S.; providing that a motor vehicle sales agreement which prohibits disclosure of its terms is void; amending s. 715.07, F.S.; conforming the vessel registration law to the motor vehicle registration law; defining the term "vessel"; authorizing the removal of an undocumented vessel parked on private property; amending s. 832.09, F.S.; authorizing the department to create a standardized form to be used for notification of satisfaction of a worthless check; amending s. 212.08, F.S.; providing additional requirements on vehicle tax

assessments; creating ch. 261, F.S.; creating the T. Mark Schmidt Off-Highway-Vehicle Safety and Recreation Act; providing legislative intent; providing definitions; creating the Off-Highway-Vehicle Recreation Advisory Committee; providing duties and responsibilities; providing for duties and responsibilities of the Department of Agriculture and Consumer Services; providing for rulemaking authority; providing for the publication and distribution of a guidebook; providing for the repair, maintenance, and rehabilitation of areas, trails, and lands; providing for contracts and agreements; providing criteria for recreation areas and trails; providing for the use of designated off-highway-vehicle funds within the Incidental Trust Fund of the Division of Forestry, Department of Agriculture and Consumer Services; amending s. 316.2074, F.S.; revising the definition of the term "all-terrain vehicle"; prohibiting the use of all-terrain vehicles on public roadways in the state; creating the Florida Off-Highway-Vehicle Titling and Registration Act; providing legislative intent; providing definitions; providing for administration by the Department of Highway Safety and Motor Vehicles; providing for rules, forms, and notices; requiring certificates of title; providing for application for and issuance of certificates of title; providing for duplicate certificates of title; requiring the furnishing of a manufacturer's statement of origin; requiring registration; providing for application for and issuance of certificate of registration, registration number, and decal; providing for the registration period and for reregistration by mail; requiring notification of change of interest and address; providing for duplicate registration certificate and decal; providing for fees; providing for disposition of fees; providing for refusal to issue and authority to cancel a certificate of title or registration; providing for crimes relating to certificates of title and registration decals; providing penalties; providing for noncriminal infractions; providing penalties; amending s. 375.315, F.S., relating to the registration of off-road vehicles; providing an appropriation; amending ss. 316.605, 318.14, 318.18, and 322.121, F.S.; correcting cross references; providing effective dates.

—was taken up, having been read the third time earlier today; now pending on motion by Rep. Gardiner to adopt Amendment 14, as amended.

The question recurred on the adoption of **Amendment 14,** as amended, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/CS/HB 807. The vote was:

Session Vote Sequence: 353

Yeas—119

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

CS/HB 1219 was taken up. On motion by Rep. Brown, the rules were waived and—

CS for SB 2174—A bill to be entitled An act relating to insurance; amending s. 624.318, F.S.; requiring access to records by the department; repealing s. 624.501(11) and (23), F.S.; repealing provisions establishing specified fees; amending s. 626.112, F.S.; prohibiting certain activities that constitute solicitation of insurance by unlicensed persons; amending s. 626.171, F.S.; revising agent application requirements; amending s. 626.181, F.S.; extending a period of eligibility for reappointment; creating s. 626.202, F.S.; requiring fingerprinting of specified persons; amending s. 626.431, F.S.; extending the nonappointment period to 48 months; amending s. 626.521, F.S.; requiring certain information upon demand of the department; amending s. 626.541, F.S.; requiring notification to the department of certain name changes and other information; amending s. 626.5715, F.S.; removing a requirement that the Department of Insurance adopt rules to assure parity of regulation; providing that the Insurance Code applies to all transactions; amending s. 626.601, F.S.; revising a confidentiality provision; amending s. 626.611, F.S.; prohibiting the sale of unregistered securities; amending ss. 626.741, 626.792, 626.835, F.S.; limiting the authority of certain nonresident licenses to that granted by the resident state; amending s. 626.8427, F.S.; revising provisions governing the duration of licenses; amending s. 626.856, F.S.; revising the definition of the term "company employee adjuster"; amending s. 626.872, F.S.; limiting the term of a temporary adjuster's license; amending s. 626.873, F.S.; revising a catchline regarding nonresident company adjusters; amending s. 627.927; limiting an experience requirement for surplus lines agents; extending a renewal grace period; creating s. 626.9531, F.S.; requiring the identification of certain persons in advertisements and other communications; amending ss. 648.315, 648.38, 648.384, F.S.; extending a period of eligibility for reappointment; creating s. 626.9651, F.S.; requiring the Department of Insurance to adopt rules governing the use of a consumer's nonpublic personal financial and health information; providing standards for the rules; providing an effective date.

—was substituted for CS/HB 1219 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Brown, the rules were waived and CS for SB 2174 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 354

Yeas—120

The Chair	Bense	Cusack	Gibson
Alexander	Benson	Davis	Goodlette
Allen	Berfield	Detert	Gottlieb
Andrews	Betancourt	Diaz de la Portilla	Green
Argenziano	Bilirakis	Diaz-Balart	Greenstein
Arza	Bowen	Dockery	Haridopolos
Attkisson	Brown	Farkas	Harper
Atwater	Brummer	Fasano	Harrell
Ausley	Brutus	Fields	Harrington
Baker	Bucher	Fiorentino	Hart
Ball	Bullard	Flanagan	Henriquez
Barreiro	Byrd	Frankel	Heyman
Baxley	Cantens	Gannon	Hogan
Bean	Carassas	Garcia	Holloway
Bendross-Mindingall	Clarke	Gardiner	Jennings
Bennett	Crow	Gelber	Johnson

Jordan	Lynn	Paul	Siplin
Joyner	Machek	Peterman	Slosberg
Justice	Mack	Pickens	Smith
Kallinger	Mahon	Prieguez	Sobel
Kendrick	Mayfield	Rich	Sorensen
Kilmer	Maygarden	Richardson	Spratt
Kosmas	McGriff	Ritter	Stansel
Kottkamp	Meadows	Romeo	Trovillion
Kravitz	Mealor	Ross	Wallace
Kyle	Melvin	Rubio	Waters
Lacasa	Miller	Russell	Weissman
Lee	Murman	Ryan	Wiles
Lerner	Needelman	Seiler	Wilson
Littlefield	Negron	Simmons	Wishner

Nays—None

So the bill passed and was immediately certified to the Senate.

CS/HB 1263 was taken up. On motion by Rep. Dockery, the rules were waived and—

CS for CS for SB 1376—A bill to be entitled An act relating to mining; amending s. 378.035, F.S.; reserving certain funds in the Nonmandatory Land Reclamation Trust Fund for use by the Department of Environmental Protection for reclaiming lands; authorizing the department to use funds from the trust fund for the purpose of closing certain abandoned phosphogypsum stack systems; limiting the period of operation of the program; requiring the Bureau of Mine Reclamation to review the sufficiency of the trust fund to support certain objectives and make reports; amending s. 378.601, F.S.; deleting provisions exempting certain mining operations from review as developments of regional impact; amending s. 403.4154, F.S.; defining the terms "phosphogypsum stack system" and "process wastewater"; authorizing the Department of Environmental Protection to take action to abate or reduce any imminent hazard caused by a phosphogypsum stack system; requiring the department to recover moneys from the owner or operator of the system; providing for attorney's fees and costs; authorizing the department to impose a lien for the recovery of such moneys; imposing certain fees upon an owner or operator who has not demonstrated financial responsibility; providing for the refund of the fee upon closure of the phosphogypsum stack; authorizing the department to expend moneys from the Nonmandatory Land Reclamation Trust Fund to close abandoned phosphogypsum stack systems; providing for a lien for the recovery of such moneys; amending s. 403.4155, F.S.; requiring the department to review certain rules and determine the adequacy of the rules; providing an appropriation; providing an effective date.

—was substituted for CS/HB 1263 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Dockery, the rules were waived and CS for CS for SB 1376 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 355

Yeas—117

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

Nays—2

Haridopolos	Mack

Votes after roll call:
Yeas to Nays—Baker

So the bill passed and was immediately certified to the Senate.

HB 1379 was taken up. On motion by Rep. Flanagan, the rules were waived and—

SB 1142—A bill to be entitled An act relating to the emergency telephone system; amending ss. 365.171, 365.172, 365.174, F.S.; transferring state control over the Florida Emergency Telephone Act and the Wireless Emergency Communications Act from the Department of Management Services to the Office of State Technology; conforming statutory references; providing for the "911" fee to be used by certain counties to fund a pilot project for a nonemergency system; amending s. 365.173, F.S.; authorizing the State Treasurer to invest moneys in the Wireless Emergency Telephone System Fund; removing requirements that funds be held in escrow; revising the date for submission of the legislative budget request; providing an effective date.

—was substituted for HB 1379 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Flanagan, the rules were waived and SB 1142 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 356

Yeas—120

The Chair	Brummer	Gardiner	Kilmer
Alexander	Brutus	Gelber	Kosmas
Allen	Bucher	Gibson	Kottkamp
Andrews	Bullard	Goodlette	Kravitz
Argenziano	Byrd	Gottlieb	Kyle
Arza	Cantens	Green	Lacasa
Attkisson	Carassas	Greenstein	Lee
Atwater	Clarke	Haridopolos	Lerner
Ausley	Crow	Harper	Littlefield
Baker	Cusack	Harrell	Lynn
Ball	Davis	Harrington	Machek
Barreiro	Detert	Hart	Mack
Baxley	Diaz de la Portilla	Henriquez	Mahon
Bean	Diaz-Balart	Heyman	Mayfield
Bendross-Mindingall	Dockery	Hogan	Maygarden
Bennett	Farkas	Holloway	McGriff
Bense	Fasano	Jennings	Meadows
Benson	Fields	Johnson	Mealor
Berfield	Fiorentino	Jordan	Melvin
Betancourt	Flanagan	Joyner	Miller
Bilirakis	Frankel	Justice	Murman
Bowen	Gannon	Kallinger	Needelman
Brown	Garcia	Kendrick	Negron

Paul	Romeo	Siplin	Trovillion
Peterman	Ross	Slosberg	Wallace
Pickens	Rubio	Smith	Waters
Prieguez	Russell	Sobel	Weissman
Rich	Ryan	Sorensen	Wiles
Richardson	Seiler	Spratt	Wilson
Ritter	Simmons	Stansel	Wishner

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 1415—A bill to be entitled An act relating to Medicaid environmental modification services; creating s. 409.9072, F.S.; providing for Medicaid enrollment of licensed general, building, and residential contractors as providers of environmental modification services for Medicaid recipients under any home and community-based services waiver program; providing a definition; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 357

Yeas—120

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

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 1491 was taken up. On motion by Rep. Attkisson, the rules were waived and—

CS for SB 1662—A bill to be entitled An act relating to Lake Okeechobee Protection Program; amending s. 373.4595, F.S.; authorizing a line item on utility sewer rates to cover wastewater residual treatment and disposal in certain counties; providing exemption from requirements of the Public Service Commission; providing for audits; providing an effective date.

—was substituted for HB 1491 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Attkisson, the rules were waived and CS for SB 1662 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 358

Yeas—118

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

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 1545—A bill to be entitled An act relating to school district performance; providing a short title; amending s. 229.57, F.S.; requiring the designation and publication of district performance grades; amending s. 236.02, F.S.; revising minimum requirements of the Florida Education Finance Program to include minimum classroom expenditure requirements and associated reporting; creating s. 236.08102, F.S.; authorizing the Legislature to require a school district that fails to meet minimum academic performance standards to meet district minimum classroom expenditure requirements; providing for monitoring; requiring reports; amending s. 237.041, F.S.; requiring a district's annual budget to include provision for required minimum classroom expenditure requirements; amending s. 237.081, F.S.; requiring the advertisement of the tentative school district budget to include notice of minimum classroom expenditure requirements; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 359

Yeas—97

The Chair	Baker	Bilirakis	Crow
Alexander	Ball	Bowen	Davis
Allen	Barreiro	Brown	Detert
Andrews	Baxley	Brummer	Diaz de la Portilla
Argenziano	Bean	Bullard	Diaz-Balart
Arza	Bennett	Byrd	Dockery
Attkisson	Bense	Cantens	Farkas
Atwater	Benson	Carassas	Fasano
Ausley	Berfield	Clarke	Fields

Fiorentino	Holloway	Maygarden	Rubio
Flanagan	Jennings	McGriff	Russell
Garcia	Johnson	Meadows	Ryan
Gardiner	Jordan	Mealor	Simmons
Gelber	Justice	Melvin	Siplin
Gibson	Kallinger	Miller	Slosberg
Goodlette	Kendrick	Murman	Sorensen
Gottlieb	Kilmer	Needelman	Spratt
Green	Kottkamp	Negron	Stansel
Greenstein	Kravitz	Paul	Trovillion
Haridopolos	Kyle	Peterman	Wallace
Harrell	Lacasa	Pickens	Waters
Harrington	Littlefield	Prieguez	Wilson
Hart	Lynn	Ritter	
Henriquez	Mack	Romeo	
Hogan	Mahon	Ross	

Nays—21

Bendross-Mindingall	Gannon	Machek	Weissman
Betancourt	Harper	Rich	Wiles
Brutus	Heyman	Richardson	Wishner
Bucher	Kosmas	Seiler	
Cusack	Lee	Smith	
Frankel	Lerner	Sobel	

Votes after roll call:
Nays—Mayfield
Nays to Yeas—Wiles

So the bill passed and was immediately certified to the Senate.

Consideration of **HB 1863** was temporarily postponed under Rule 11.10.

HB 1971—A bill to be entitled An act relating to water supply policy; amending s. 153.11, F.S.; authorizing county commissions to establish water and sewer rates and rate structures to encourage and promote water conservation and the use of reclaimed water; amending s. 163.3167, F.S.; requiring that each local government provide in its growth management plan for the long-term availability of water supplies for approved land development; amending s. 163.3177, F.S.; directing local government comprehensive plans to coordinate with regional water supply plans; directing future land use plans to be based on data regarding the availability of sufficient water supplies for present and future growth; amending s. 373.1961, F.S.; allowing certain alternative water supply facilities to recover the costs of such facilities through rate structures; amending s. 373.217, F.S.; recognizing a permit issued under Part II of Chapter 373, F.S., as conclusive determination of water supply availability; creating s. 373.621, F.S.; recognizing the significance of water conservation; requiring consideration of the implementation of water conservation practices in water use permitting; amending s. 403.064, F.S.; requiring the reuse of reclaimed water when feasible; creating s. 570.080, F.S.; establishing an agricultural water conservation program; requiring water management districts to develop and finance public-private alternative water supply projects; requiring the dissemination of public information regarding the status of major water sources; amending s. 373.0693, F.S.; providing for membership on the Manasota Basin Board and for the resolution of tie votes; providing an effective date.

—was read the third time by title.

Representative(s) Harrington offered the following:

(Amendment Bar Code: 835159)

Amendment 2 (with title amendment)—On page 2, line 12 through page 5, line 23
remove from the bill: all of said lines

And the title is amended as follows:

On page 1, lines 3 through 7
remove from the title of the bill: all of said lines

and insert in lieu thereof: amending s. 163.3167, F.S.; requiring

Rep. Harrington moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Harrington offered the following:

(Amendment Bar Code: 080453)

Amendment 3—On page 9, line 8
remove from the bill: all of said line

(k) The Florida Public

Rep. Harrington moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Harrington offered the following:

(Amendment Bar Code: 734821)

Amendment 4—On page 16, lines 5 through 9
remove from the bill: all of said lines

and insert in lieu thereof:
year 2001-2002. The selected project shall meet at least one of the following criteria:

1. The project supports establishment of a dependable, sustainable supply of water which is not otherwise financially feasible;

2. The project provides substantial environmental benefits by preventing or limiting adverse water resource impacts, but requires funding assistance to be economically competitive with other options; or

3. The project significantly implements reuse, capture, storage, recharge, or conservation of water in a manner that contributes to the sustainability of regional water sources.
Projects that create new sources in order to help implement a prevention or recovery strategy for a minimum flow or level shall be given priority consideration for funding.

Rep. Harrington moved the adoption of the amendment, which was adopted by the required two-thirds vote.

Representative(s) Harrington offered the following:

(Amendment Bar Code: 283883)

Amendment 5 (with title amendment)—On page 17, between lines 20 and 21 of the bill

insert: Paragraph (b) of subsection (3) of section 403.1835, Florida Statutes, is amended to read:

403.1835 Water pollution control financial assistance.—

(3) The department may provide financial assistance through any program authorized under s. 603 of the Federal Water Pollution Control Act (Clean Water Act), Pub. L. No. 92-500, as amended, including, but not limited to, making grants and loans, providing loan guarantees, purchasing loan insurance or other credit enhancements, and buying or refinancing local debt. This financial assistance must be administered in accordance with this section and applicable federal authorities. The department shall administer all programs operated from funds secured through the activities of the Florida Water Pollution Control Financing Corporation under s. 403.1837, to fulfill the purposes of this section.

(b) The department may make or request the corporation to make loans, grants, and deposits to other entities eligible to participate in the financial assistance programs authorized under the Federal Water Pollution Control Act, or as a result of other federal action, which entities may pledge any revenue available to them to repay any funds borrowed. *Notwithstanding s. 18.10, the department may make deposits to financial institutions that earn less than the prevailing rate for United States Treasury securities with corresponding maturities for the purpose of enabling such financial institutions to make below-market interest rate loans to entities qualified to receive loans under this section and the rules of the department.*

And the title is amended as follows:

On page 2, line 7
remove from the title of the bill: all of said line

and insert in lieu thereof: the resolution of tie votes; amending s. 403.1835, F.S.; providing for below-market interest rate loans to qualified entities; providing an

Rep. Harrington moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 1971. The vote was:

Session Vote Sequence: 360

Yeas—113

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

Nays—1

Lee

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

HB 1863—A bill to be entitled An act relating to onsite sewage treatment and disposal systems; amending s. 381.0065, F.S.; providing for regulation by the Department of Health of maintenance entities for performance-based treatment systems and aerobic treatment unit systems; requiring such systems to contract with a permitted maintenance entity; providing duties of such entities; providing for biennial operating permits for aerobic treatment units; revising duties of the department; amending s. 381.0066, F.S.; reducing the operating permit fee for aerobic treatment units and providing operating permit and maintenance entity permit fees for performance-based treatment systems; providing an effective date.

—was read the third time by title.

Representative(s) Argenziano offered the following:

(Amendment Bar Code: 090653)

Amendment 1 (with title amendment)—On page 18, between lines 30 and 31, of the bill

insert:

Section 3. *The Department of Health Technical Review and Advisory Panel, as created in s. 381.0068, Florida Statutes, is directed to review and advise on the need for licensing the portable restroom industry in the state. Taking into consideration issues relating to qualifications, education, training, and the procedure for handling, transporting, and disposal of septage. The review is not intended to impact work done by septic tank or master septic tank operators. The technical review and advisory panel shall submit its report to the Legislature by January 2, 2002.*

And the title is amended as follows:

On page 1, line 16,

after the semicolon, insert: providing for review of the need for licensing the portable restroom industry; requiring a report to the Legislature;

Rep. Argenziano moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 1863. The vote was:

Session Vote Sequence: 361

Yeas—120

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

SB 150—A bill to be entitled An act relating to property exempt from legal process; amending s. 222.25, F.S.; exempting certain debtor's interests from attachment, garnishment, or legal process; providing that such exemption does not apply to debts owed for child support or spousal support; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 362

Yeas—119

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

Nays—1

Baker

So the bill passed and was immediately certified to the Senate.

CS for SB 178—A bill to be entitled An act relating to duration of real property liens; amending s. 55.10, F.S.; revising the period of duration of certain liens; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 363

Yeas—120

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

Nays—None

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Diaz-Balart, the rules were waived by the required two-thirds vote and—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 466, as amended, and requests the concurrence of the House; and in the event the House refuses to concur, the Senate requests that a conference committee be appointed to work out the differences between the two houses.

Faye W. Blanton, Secretary

By the Committee on Governmental Oversight and Productivity and Senators Garcia, Sanderson, Bronson and Sebesta—

CS for SB 466—A bill to be entitled An act relating to public employment; amending s. 20.23, F.S.; eliminating provisions requiring that the inspector general position in the Department of Transportation be within the Career Service System; repealing ss. 110.108, 110.109, F.S., relating to personnel pilot projects, productivity improvement, and personnel audits of executive branch agencies; amending s. 110.1091, F.S.; providing requirements for a program to assist state employees; repealing s. 110.1095, F.S., relating to supervisory and management training and continuing education for executive branch agencies; amending s. 110.1099, F.S.; providing for state employees to receive vouchers or grants to attend public educational institutions under specified circumstances; requiring the Department of Management Services to adopt rules; conforming language; amending s. 110.1127, F.S.; providing for security background checks for certain state employee positions; amending s. 110.113, F.S.; requiring all state employees except those who receive an exemption to participate in the direct deposit program; amending s. 110.1245, F.S.; providing for a savings-sharing program for employees whose proposals result in savings; providing for bonus payments; eliminating the meritorious service awards program; requiring that such bonuses be paid from funds authorized by the Legislature; repealing s. 110.1246, F.S., relating to lump-sum bonus payments; amending s. 110.129, F.S.; authorizing the Department of Management Services to furnish technical assistance to improve personnel administration for municipalities or other political subdivisions; amending s. 110.131, F.S.; requiring approval by the Executive Office of the Governor for an extension in hours of other-personal-services temporary employment; providing certain exceptions; amending s. 110.203, F.S.; revising definitions; including the outsourcing and privatization of an activity or function within the definition of the term "layoff"; defining the term "firefighter" and "law enforcement or correctional officer"; creating s. 110.2035, F.S.; requiring the Department of Management Services to develop a classification and compensation program for certain employees; providing requirements for the program; requiring that the department submit a proposed plan to the Governor and the Legislature; requiring the department to adopt rules; amending s. 110.205, F.S.; providing for managerial employees and certain employees under a collective bargaining agreement to be exempt from the Career Service System; providing for carrying leave forward; amending s. 110.211, F.S.; authorizing the Department of Management Services to contract for recruitment services; amending s. 110.213, F.S.; requiring a probationary period for new employees; revising requirements for agency heads in selecting employees; providing certain restrictions for leave benefits for Senior Management

Service employees; providing for annual payouts for a specified amount of unused annual leave for career service employees; amending s. 110.219, F.S.; revising provisions governing attendance and leave; providing for a year-end cash-out of annual leave by specified employees under specified circumstances; amending s. 110.224, F.S.; providing for a public employee performance evaluation system; providing requirements for the system; authorizing the department to adopt rules; amending s. 110.227, F.S.; prohibiting "bumping"; providing certain exceptions; prescribing layoff procedures; amending the definition of cause for suspensions or dismissals; establishing grievance procedures; providing procedures for suspensions, reductions in pay, demotions, and dismissals; providing for appeals to the Public Employees Relations Commission; providing for hearings and final orders by the Public Employees Relations Commission; amending s. 110.233, F.S.; prohibiting certain political activity by a career service employee; amending s. 110.235, F.S.; requiring state agencies to implement training programs; amending s. 110.401, F.S.; providing for training and management-development programs for senior-level management; amending s. 110.403, F.S.; requiring the department to administer a professional development program; increasing the percentage of authorized positions within the Senior Management Service; amending s. 110.601, F.S.; providing for a system of personnel management; amending s. 110.602, F.S.; eliminating a limitation on the percentage of authorized positions within the Selected Exempt Service; amending s. 110.605, F.S.; providing for personnel rules, records, reports, and performance appraisals; amending s. 110.606, F.S.; requiring the department to collect certain data with respect to classifications with the Selected Exempt Service; amending ss. 288.708 and 440.4416, F.S.; providing for the executive director of the Florida Black Business Investment Board and the members of the Workers' Compensation Oversight Board to be subject to the Senior Management Service System; amending s. 216.262, F.S.; providing for the Legislative Budget Commission to authorize a state agency to retain moneys associated with eliminated positions under certain circumstances; amending s. 447.201, F.S.; providing public policy with respect to public employees; amending s. 447.205, F.S.; removing reference to the Department of Labor and Employment Security; conforming language; amending s. 447.207, F.S.; revising authority of the commission to hear certain appeals; conforming provisions to changes made by the act; amending s. 447.208, F.S.; conforming language; amending procedures for specified appeals; amending s. 447.507, F.S.; revising requirements for the probation served by certain public employees; amending s. 112.215, F.S.; authorizing certain pretax, trustee-to-trustee transfer of deferred compensation accounts; repealing s. 125.0108(2)(d), F.S., relating to the former Career Service Commission; transferring the Public Employees Relations Commission from the Department of Labor and Employment Security to the Agency for Workforce Innovation; transferring powers, duties, functions, rules, records, personnel, property, and unexpended balances; providing for the commission's independence under specified circumstances; requiring the Department of Management Services to adopt rules; requiring that the department develop a performance agreement between management employees and agency heads; creating s. 110.1315, F.S.; authorizing the department to contract for an alternative retirement program for temporary and seasonal employees; providing requirements for selecting a vendor; amending s. 447.403, F.S.; revising requirements for resolving an impasse in collective bargaining negotiations; prohibiting the appointment of a mediator if the Governor is the employer; providing a procedure for resolving such impasse; amending s. 216.163, F.S., relating to an impasse in collective bargaining negotiations; conforming provisions to changes made by the act; creating a Career Service Advisory Board; providing for selection of members; providing powers and duties; authorizing the Governor to develop a tax-sheltered plan for leave and special compensation pay for specified employees; providing effective dates.

—was read the first time by title. On motion by Rep. Diaz-Balart, the rules were waived and the bill was read the second time by title.

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

(Amendment Bar Code: 825195)

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

Section 1. *Section 110.105, Florida Statutes, is renumbered as section 109.105, Florida Statutes.*

Section 2. Section 110.107, Florida Statutes, is renumbered as section 109.107, Florida Statutes, and amended to read:

109.107 ~~110.107~~ Definitions.—As used in this chapter~~, the term~~:

(1) "Department" means the Department of Management Services.

(2)~~(3)~~ "Furlough" means a temporary reduction in the regular hours of employment in a pay period, or temporary leave without pay for one or more pay periods, with a commensurate reduction in pay, necessitated by a projected deficit in any fund that supports salary and benefit appropriations. The deficit must be projected by the Revenue Estimating Conference pursuant to s. 216.136(3).

(3) "Office" means the Office of Employee Relations within the Department of Management Services.

(4)~~(2)~~ "Secretary" means the Secretary of Management Services.

Section 3. *Sections 110.108 and 110.109, Florida Statutes, are repealed.*

Section 4. *Section 110.1082, Florida Statutes, is renumbered as section 109.1082, Florida Statutes.*

Section 5. Section 110.1091, Florida Statutes, is renumbered as section 109.1091, Florida Statutes, and amended to read:

109.1091 ~~110.1091~~ Program for assisting state employees; confidentiality.—*An* ~~Each~~ employing state agency may provide a program to assist any *of its* state *employees* ~~employee~~ who *have* ~~has~~ a behavioral or medical disorder, substance abuse problem, or emotional difficulty which affects *their* ~~the employee's~~ job performance, through referral for counseling, therapy, or other professional treatment. Each employing state agency may designate community diagnostic and referral resources as necessary to implement the provisions of this section. Any communication between a state employee and personnel or service providers of a state employee assistance program relative to the employee's participation in the program shall be a confidential communication. Any routine monitoring of telephone calls by the state agency does not violate this provision. All records relative to that participation shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 6. *Section 110.1095, Florida Statutes, is repealed.*

Section 7. Section 110.1099, Florida Statutes, is renumbered as section 109.1099, Florida Statutes, and amended to read:

109.1099 ~~110.1099~~ Education and training opportunities for state employees.—

(1) Education and training are an integral component in improving the delivery of services to the public. Recognizing that the application of productivity-enhancing technology and practice demand continuous educational and training opportunities, *a* state *employee* ~~employees~~ may be authorized to receive *a* fundable tuition *waiver* ~~waivers~~ on a space-available basis or *a voucher* ~~vouchers~~ to attend work-related courses at public universities. Student credit hours generated by state employee fee waivers shall be fundable credit hours.

(2) The department, in conjunction with the agencies, shall request that *public universities* ~~such institutions~~ provide evening and weekend programs for state employees. When evening and weekend training and educational programs are not available, *an employee* ~~employees~~ may be authorized to take paid time off during *his or her* ~~their~~ regular working hours for training and career development, as provided in s. *109.105(1)* ~~110.105(1)~~, if such training benefits the employer *as determined by that employee's agency head*.

(3) *An employee* ~~Employees~~ who *exhibits* ~~exhibit~~ superior aptitude and performance may be authorized *by that employee's agency head* to take *a* paid educational *leave* ~~leaves~~ of absence for up to 1 academic year at a time, for specific approved work-related education and training.

~~(4)~~ *That employee* ~~Such employees~~ must enter into *a contract* ~~contracts~~ to return to state employment for a period of time equal to the length of the leave of absence or refund salary and benefits paid during *his or her* ~~their~~ educational *leave* ~~leaves~~ of absence.

(4)~~(6)~~ As a precondition to approving an employee's training request, an agency or the judicial branch may require an employee to enter into an agreement that requires the employee to reimburse the agency or judicial branch for the registration fee or similar expense for any training or training series when the cost of the fee or similar expense exceeds $1,000 if the employee voluntarily terminates employment or is discharged ~~for cause~~ from the agency or judicial branch within a specified period of time not *to exceed* ~~exceeding~~ 4 years after the conclusion of the training. This subsection does not apply to any training program that an agency or the judicial branch requires *an* ~~the~~ employee to attend. An agency or the judicial branch may pay the outstanding balance then due and owing on behalf of a state employee under this subsection in connection with recruitment and hiring of such state employee.

(5) The Department of Management Services, in consultation with the agencies and, to the extent applicable, Florida's public *universities* ~~postsecondary educational institutions~~, shall adopt rules to implement and administer this section.

Section 8. Section 110.112, Florida Statutes, is renumbered as section 109.112, Florida Statutes, and amended to read:

109.112 ~~110.112~~ Affirmative action; equal employment opportunity.—

(1) It *is* ~~shall be~~ the policy of *this* ~~the~~ state to *fully utilize the rich diversity of Florida's human resources and to* assist in providing the assurance of equal employment opportunity through *education and other* programs of affirmative and positive action that will allow *the citizens of Florida to benefit from the* full utilization of *all available human resources* ~~women and minorities~~.

(2)(a) The head of each executive agency *and each state attorney and public defender* shall develop and implement an affirmative action plan in accordance with rules adopted by the department and approved by a majority vote of the Administration Commission before their adoption.

(b) Each executive agency shall establish annual goals for ensuring full utilization of groups underrepresented in its workforce as compared to the relevant labor market, as defined by the agency. *Each state attorney and public defender shall establish annual goals for ensuring full utilization of groups underrepresented in his or her workforce as compared to the relevant labor market, as defined by the state attorney or public defender.* Each executive agency *and each state attorney and public defender* shall design *the* ~~its~~ affirmative action plan to meet *the* ~~its~~ established goals.

(c) An affirmative action-equal employment opportunity officer shall be appointed by the head of each executive agency *and each state attorney and public defender*. The affirmative action-equal employment opportunity officer's responsibilities *shall* ~~must~~ include determining annual goals, monitoring agency compliance, and providing consultation *with* ~~to~~ managers regarding progress, deficiencies, and appropriate corrective action.

(d) The department shall report information in its annual workforce report relating to the implementation, continuance, updating, and results of each executive agency's affirmative action plan for the previous fiscal year.

(e) The department shall provide to all supervisory personnel of the executive agencies training in the principles of equal employment opportunity and affirmative action, the development and implementation of affirmative action plans, and the establishment of annual affirmative action goals. The department may contract for training services, and each participating agency shall reimburse the department for costs incurred through such contract. After the department approves the contents of the training program for the agencies, the department may delegate this training to the executive agencies.

(3) Each state attorney and public defender shall:

~~(a) Develop and implement an affirmative action plan.~~

~~(b) Establish annual goals for ensuring full utilization of groups underrepresented in its workforce as compared to the relevant labor market in this state. The state attorneys' and public defenders' affirmative action plans must be designed to meet the established goals.~~

~~(c) Appoint an affirmative action-equal employment opportunity officer.~~

~~(d)~~ report annually to the Justice Administrative Commission on the implementation, continuance, updating, and results of his or her affirmative action program for the previous fiscal year.

(4) The state, its agencies and officers shall ensure freedom from discrimination in employment as provided by the Florida Civil Rights Act of 1992, by s. 112.044, and by this chapter.

(5) Any individual claiming to be aggrieved by an unlawful employment practice may file a complaint with the Florida Commission on Human Relations as provided by s. *760.11(1)* ~~760.10(10)~~.

(6) The department shall review and monitor executive agency actions in carrying out the rules adopted by the department pursuant to this section.

Section 9. Section 110.1127, Florida Statutes, is renumbered as section 109.1127, Florida Statutes, and subsection (1) of said section is amended to read:

109.1127 ~~110.1127~~ Employee security checks.—

(1) Each employing agency shall designate *those employee* ~~such of its~~ positions ~~of state employment~~ which, because of the special trust or responsibility or sensitive location of *those* ~~such~~ positions, require that persons occupying *those* ~~such~~ positions be subject to a security background check, including fingerprinting, as a condition of employment.

Section 10. *Section 110.1128, Florida Statutes, is renumbered as section 109.1128, Florida Statutes.*

Section 11. Section 110.113, Florida Statutes, is renumbered as section 109.113, Florida Statutes, and, effective January 1, 2002, subsection (2) of said section is amended to read:

109.113 ~~110.113~~ Pay periods for state officers and employees; salary payments by direct deposit.—

(2) As a condition of employment, a person appointed to a position in state government ~~on or after July 1, 1996,~~ is required to participate in the direct deposit program pursuant to s. 17.076. ~~This subsection does not apply to persons who are in the employment of the state on July 1, 1996, and subsequently receive promotion appointments, transfers, or other changes in positions within the same personnel system after July 1, 1996.~~ An employee may request an exemption from the provisions of this subsection when such employee can demonstrate a hardship ~~or when such employee is in an other personal services position~~.

Section 12. *Sections 110.114, 110.115, 110.1155, 110.116, and 110.1165, Florida Statutes, are renumbered as sections 109.114, 109.115, 109.1155, 109.116, and 109.1165, Florida Statutes, respectively.*

Section 13. Section 110.117, Florida Statutes, is renumbered as section 109.117, Florida Statutes, and subsection (3) of said section is amended to read:

109.117 ~~110.117~~ Paid holidays.—

(3) Each full-time employee is entitled to one personal holiday each year. Each part-time employee is entitled to a personal holiday each year which shall be calculated proportionately to the personal holiday allowed to a full-time employee. Such personal holiday shall be credited to eligible employees on July 1 of each year to be taken prior to June 30 of the following year. Members of the teaching and research faculty of the State University System and administrative and professional positions exempted under s. *109.205(2)(d)* ~~110.205(2)(d)~~ are not eligible for this benefit.

Section 14. *Sections 110.118, 110.119, 110.120, 110.121, 110.122, 110.1221, and 110.1225, Florida Statutes, are renumbered as sections 109.118, 109.119, 109.120, 109.121, 109.122, 109.1221, and 109.1225, Florida Statutes, respectively.*

Section 15. Section 110.1227, Florida Statutes, is renumbered as section 109.1227, Florida Statutes, and paragraph (c) of subsection (1) of said section is amended to read:

109.1227 ~~110.1227~~ Florida Employee Long-Term-Care Plan Act.—

(1) The Legislature finds that state expenditures for long-term-care services continue to increase at a rapid rate and that the state faces increasing pressure in its efforts to meet the long-term-care needs of the public.

(c) This act in no way affects the Department of Management Services' authority pursuant to s. *109.123* ~~110.123~~.

Section 16. Section 110.123, Florida Statutes, is renumbered as section 109.123, Florida Statutes, and paragraph (g) of subsection (3) of said section is amended to read:

109.123 ~~110.123~~ State group insurance program.—

(3) STATE GROUP INSURANCE PROGRAM.—

(g)1. A person eligible to participate in the state group insurance program may be authorized by rules adopted by the department, in lieu of participating in the state group health insurance plan, to exercise an option to elect membership in a health maintenance organization plan which is under contract with the state in accordance with criteria established by this section and by said rules. The offer of optional membership in a health maintenance organization plan permitted by this paragraph may be limited or conditioned by rule as may be necessary to meet the requirements of state and federal laws.

2. The department shall contract with health maintenance organizations seeking to participate in the state group insurance program through a request for proposal or other procurement process, as developed by the Department of Management Services and determined to be appropriate.

a. The department shall establish a schedule of minimum benefits for health maintenance organization coverage, and that schedule shall include: physician services; inpatient and outpatient hospital services; emergency medical services, including out-of-area emergency coverage; diagnostic laboratory and diagnostic and therapeutic radiologic services; mental health, alcohol, and chemical dependency treatment services meeting the minimum requirements of state and federal law; skilled nursing facilities and services; prescription drugs; and other benefits as may be required by the department. Additional services may be provided subject to the contract between the department and the HMO.

b. The department may establish uniform deductibles, copayments, or coinsurance schedules for all participating HMO plans.

c. The department may require detailed information from each health maintenance organization participating in the procurement process, including information pertaining to organizational status, experience in providing prepaid health benefits, accessibility of services, financial stability of the plan, quality of management services, accreditation status, quality of medical services, network access and adequacy, performance measurement, ability to meet the department's reporting requirements, and the actuarial basis of the proposed rates and other data determined by the director to be necessary for the evaluation and selection of health maintenance organization plans and negotiation of appropriate rates for these plans. Upon receipt of proposals by health maintenance organization plans and the evaluation of those proposals, the department may enter into negotiations with all of the plans or a subset of the plans, as the department determines appropriate. Nothing shall preclude the department from negotiating regional or statewide contracts with health maintenance organization plans when this is cost-effective and when the department determines that the plan offers high value to enrollees.

d. The department may limit the number of HMOs that it contracts with in each service area based on the nature of the bids the department receives, the number of state employees in the service area, or any unique geographical characteristics of the service area. The department shall establish by rule service areas throughout the state.

e. All persons participating in the state group insurance program who are required to contribute towards a total state group health premium shall be subject to the same dollar contribution regardless of whether the enrollee enrolls in the state group health insurance plan or in an HMO plan.

3. The department is authorized to negotiate and to contract with specialty psychiatric hospitals for mental health benefits, on a regional basis, for alcohol, drug abuse, and mental and nervous disorders. The department may establish, subject to the approval of the Legislature pursuant to subsection (5), any such regional plan upon completion of an actuarial study to determine any impact on plan benefits and premiums.

4. In addition to contracting pursuant to subparagraph 2., the department shall enter into contract with any HMO to participate in the state group insurance program which:

a. Serves greater than 5,000 recipients on a prepaid basis under the Medicaid program;

b. Does not currently meet the 25 percent non-Medicare/non-Medicaid enrollment composition requirement established by the Department of Health excluding participants enrolled in the state group insurance program;

c. Meets the minimum benefit package and copayments and deductibles contained in sub-subparagraphs 2.a. and b.;

d. Is willing to participate in the state group insurance program at a cost of premiums that is not greater than 95 percent of the cost of HMO premiums accepted by the department in each service area; and

e. Meets the minimum surplus requirements of s. 641.225.

The department is authorized to contract with HMOs that meet the requirements of sub-subparagraphs a.-d. prior to the open enrollment period for state employees. The department is not required to renew the contract with the HMOs as set forth in this paragraph more than twice. Thereafter, the HMOs shall be eligible to participate in the state group insurance program only through the request for proposal process described in subparagraph 2.

5. All enrollees in the state group health insurance plan or any health maintenance organization plan shall have the option of changing to any other health plan which is offered by the state within any open enrollment period designated by the department. Open enrollment shall be held at least once each calendar year.

6. When a contract between a treating provider and the state-contracted health maintenance organization is terminated for any reason other than for cause, each party shall allow any enrollee for whom treatment was active to continue coverage and care when medically necessary, through completion of treatment of a condition for which the enrollee was receiving care at the time of the termination, until the enrollee selects another treating provider, or until the next open enrollment period offered, whichever is longer, but no longer than 6 months after termination of the contract. Each party to the terminated contract shall allow an enrollee who has initiated a course of prenatal

care, regardless of the trimester in which care was initiated, to continue care and coverage until completion of postpartum care. This does not prevent a provider from refusing to continue to provide care to an enrollee who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subparagraph, the program and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days before termination of a contract are effective only if agreed to by both parties.

7. Any HMO participating in the state group insurance program shall submit health care utilization and cost data to the department, in such form and in such manner as the department shall require, as a condition of participating in the program. The department shall enter into negotiations with its contracting HMOs to determine the nature and scope of the data submission and the final requirements, format, penalties associated with noncompliance, and timetables for submission. These determinations shall be adopted by rule.

8. The department may establish and direct, with respect to collective bargaining issues, a comprehensive package of insurance benefits that may include supplemental health and life coverage, dental care, long-term care, vision care, and other benefits it determines necessary to enable state employees to select from among benefit options that best suit their individual and family needs.

a. Based upon a desired benefit package, the department shall issue a request for proposal for health insurance providers interested in participating in the state group insurance program, and the department shall issue a request for proposal for insurance providers interested in participating in the non-health-related components of the state group insurance program. Upon receipt of all proposals, the department may enter into contract negotiations with insurance providers submitting bids or negotiate a specially designed benefit package. Insurance providers offering or providing supplemental coverage as of May 30, 1991, which qualify for pretax benefit treatment pursuant to s. 125 of the Internal Revenue Code of 1986, with 5,500 or more state employees currently enrolled may be included by the department in the supplemental insurance benefit plan established by the department without participating in a request for proposal, submitting bids, negotiating contracts, or negotiating a specially designed benefit package. These contracts shall provide state employees with the most cost-effective and comprehensive coverage available; however, no state or agency funds shall be contributed toward the cost of any part of the premium of such supplemental benefit plans. With respect to dental coverage, the division shall include in any solicitation or contract for any state group dental program made after July 1, 2001, a comprehensive indemnity dental plan option which offers enrollees a completely unrestricted choice of dentists. If a dental plan is endorsed, or in some manner recognized as the preferred product, such plan shall include a comprehensive indemnity dental plan option which provides enrollees with a completely unrestricted choice of dentists.

b. Pursuant to the applicable provisions of s. *109.161* ~~110.161~~, and s. 125 of the Internal Revenue Code of 1986, the department shall enroll in the pretax benefit program those state employees who voluntarily elect coverage in any of the supplemental insurance benefit plans as provided by sub-subparagraph a.

c. Nothing herein contained shall be construed to prohibit insurance providers from continuing to provide or offer supplemental benefit coverage to state employees as provided under existing agency plans.

Section 17. Section 110.12312, Florida Statutes, is renumbered as section 109.12312, Florida Statutes, and amended to read:

109.12312 ~~110.12312~~ Open enrollment period for retirees.—On or after July 1, 1997, the Department of Management Services shall provide for an open enrollment period for retired state employees who want to obtain health insurance coverage under ss. *109.123* ~~110.123~~ and *109.12315* ~~110.12315~~. The options offered during the open enrollment period must provide the same health insurance coverage as the coverage provided to active employees under the same premium payment conditions in effect for covered retirees, including eligibility for health insurance subsidy payments under s. 112.363. A person who separates from employment subsequent to May 1, 1988, but whose date of retirement occurs on or after August 1, 1995, is eligible as of the first open enrollment period occurring after July 1, 1997, with an effective date of January 1, 1998, as long as the retiree's enrollment remains in effect.

Section 18. *Section 110.12315, Florida Statutes, is renumbered as section 109.12315, Florida Statutes.*

Section 19. Section 110.1232, Florida Statutes, is renumbered as section 109.1232, Florida Statutes, and amended to read:

109.1232 ~~110.1232~~ Health insurance coverage for persons retired under state-administered retirement systems before January 1, 1976, and for spouses.—Notwithstanding any provisions of law to the contrary, the Department of Management Services shall provide health insurance coverage under the state group insurance program for persons who retired before January 1, 1976, under any of the state-administered retirement systems and who are not covered by social security and for the spouses and surviving spouses of such retirees who are also not covered by social security. Such health insurance coverage shall provide the same benefits as provided to other retirees who are entitled to participate under s. *109.123* ~~110.123~~. The claims experience of this group shall be commingled with the claims experience of other members covered under s. *109.123* ~~110.123~~.

Section 20. *Sections 110.1234, 110.1238, and 110.1239, Florida Statutes, are renumbered as sections 109.1234, 109.1238, and 109.1239, Florida Statutes, respectively.*

Section 21. Section 110.124, Florida Statutes, is renumbered as section 109.124, Florida Statutes, and, effective January 1, 2002, subsections (2) and (4) of said section are amended to read:

109.124 ~~110.124~~ Termination or transfer of employees aged 65 or older.—

(2) Whenever any employee who has attained age 65 is terminated by an agency or department solely because the employee attains age 65, the employee may *seek* ~~apply for~~ relief from the action *through voluntary binding arbitration pursuant to s. 109.240* ~~to the Public Employees Relations Commission pursuant to s. 447.208~~. The employee shall continue in employment pending the outcome of the *voluntary binding arbitration* ~~application~~. If the employee continues in employment following *a* ~~the~~ decision of the *voluntary binding arbitration panel* ~~commission~~, no further action shall be taken by the agency or department to terminate the employee for a period of 1 year following the date of the *panel's* decision ~~of the commission~~ unless approved by the *office* ~~commission~~ upon a showing by the agency or department that the employee's capability has changed to a sufficient extent that he or she is no longer able to perform any job within such agency or department. *An employee who does not request voluntary binding arbitration may apply for relief to the circuit court.*

(4) If mutually agreed to by the employee and the agency or department, an employee who has attained age 65 may be reduced to a part-time position for the purpose of phasing the employee out of employment into retirement. Such an arrangement may also be required by the *voluntary binding arbitration panel or the court* ~~Public Employees Relations Commission~~ as part of its decision in any appeal arising out of this section. A reduction to a part-time position may be accompanied by an appropriate reduction in pay.

Section 22. Section 110.1245, Florida Statutes, is renumbered as section 109.1245, Florida Statutes, and amended to read:

(Substantial rewording of section. See s. 110.1245, F.S., for present text.)

109.1245 Savings sharing; bonus payments; other awards.—

(1)(a) The Department of Management Services shall set policy, develop procedures, and promote a savings sharing program for an individual or group of employees who propose procedures or ideas which are adopted and which result in eliminating or reducing state

expenditures, if such proposals are placed in effect and can be implemented under current statutory authority.

(b) Each agency head shall recommend employees individually or by group to be awarded an amount of money, which amount shall be directly related to the cost savings realized. Each proposed award and amount of money must be approved by the Legislative Budgeting Commission.

(c) Each state agency, unless otherwise provided by law, may participate in the program. The Chief Justice shall have the authority to establish a savings sharing program for employees of the judicial branch within the parameters established in this section. The program shall apply to all employees within the Career Service System, the Selected Exempt Service, and comparable employees within the judicial branch.

(d) The department and the judicial branch shall submit annually to the President of the Senate and the Speaker of the House of Representatives information that outlines each agency's level of participation in the savings sharing program. The information shall include, but is not limited to:

1. The number of proposals made.

2. The number of awards made to employees or groups for adopted proposals.

3. The actual cost savings realized as a result of implementing employee or group proposals.

4. The number of employees or groups recognized for superior accomplishments.

(2) In June of each year, bonuses shall be paid to employees from funds authorized by the Legislature in an appropriation specifically for bonuses. Each agency shall develop a plan for awarding lump-sum bonuses, which plan shall be submitted to and approved by the Office of Policy and Budget in the Executive Office of the Governor no later than September 15 of each year. Such plan shall include, at a minimum:

(a) A statement that bonuses shall be awarded from unused salary and expense dollars.

(b) A statement that all bonuses are subject to appropriation by the Legislature.

(c) Eligibility criteria as follows:

1. The employee must have been employed prior to July 1 of that fiscal year and have been continuously employed through the date of distribution.

2. The employee must not have been on leave without pay consecutively for more than 6 months during the fiscal year.

3. The employee must have had no disciplinary action during the period beginning July 1 through the date the bonus checks are distributed. Disciplinary actions include written reprimands, suspensions, dismissals, and involuntary or voluntary demotions that were associated with a disciplinary action.

4. The employee must have demonstrated a commitment to the agency mission by reducing the burden on those served, continually improving the way business is conducted, producing results in the form of increased outputs, and working to improve processes.

5. The employee must have demonstrated initiative in work and exceeded normal job expectations.

6. The employee must have modeled the way for others by displaying agency values of fairness, cooperation, respect, commitment, honesty, excellence, and teamwork.

(d) An evaluation process of the employee's performance and eligibility to be performed no less than quarterly.

(e) Peer input to account for at least 40 percent of the bonus award determination.

(f) A division of the agency by work unit for purposes of peer input and bonus distribution.

(g) A limitation on bonus distributions equal to 35 percent of the agency's total authorized positions. This requirement may be waived by the Office of Policy and Budget in the Executive Office of the Governor upon a showing of exceptional circumstances.

(3) Each department head is authorized to incur expenditures to award suitable framed certificates, pins, and other tokens of recognition to retiring state employees whose service with the state has been satisfactory, in appreciation and recognition of such service. Such awards may not cost in excess of $100 each plus applicable taxes.

(4) Each department head is authorized to incur expenditures to award suitable framed certificates, pins, or other tokens of recognition to state employees who have achieved increments of 5 years of satisfactory service in the agency or to the state, in appreciation and recognition of such service. Such awards may not cost in excess of $100 each plus applicable taxes.

(5) Each department head is authorized to incur expenditures not to exceed $100 each plus applicable taxes for suitable framed certificates, plaques, or other tokens of recognition to any appointed member of a state board or commission whose service to the state has been satisfactory, in appreciation and recognition of such service upon the expiration of such board or commission member's final term in such position.

Section 23. *Section 110.1246, Florida Statutes, is repealed.*

Section 24. *Sections 110.125, 110.126, and 110.127, Florida Statutes, are renumbered as sections 109.125, 109.126, and 109.127, Florida Statutes, respectively.*

Section 25. Section 110.129, Florida Statutes, is renumbered as section 109.129, Florida Statutes, and amended to read:

109.129 ~~110.129~~ Services to political subdivisions.—

(1) Upon request, the department may enter into *a* formal *agreement* ~~agreements~~ with any municipality or political subdivision of the state to furnish technical assistance to improve the system or methods of personnel administration of *that* ~~such~~ municipality or political subdivision. The department shall provide such assistance within the limitations of available staff, funds, and other resources. All municipalities and political subdivisions of the state are authorized to enter into such agreements.

(2) Technical assistance *includes* ~~may include~~, but *is* ~~shall~~ not ~~be~~ limited to, *providing* technical advice, written reports, *or* ~~and~~ other information or materials*, which* ~~and~~ may cover such subjects as management and personnel systems, central administrative and support services, employee training, and employee productivity.

(3) Technical assistance rendered to municipalities or political subdivisions pursuant to this section may be on a nonreimbursable basis or may be partly or wholly reimbursable based upon the extent, nature, and duration of the requested assistance; the extent of resources required; and the degree to which the assistance would be of use to other municipalities or political subdivisions of the state.

Section 26. Section 110.131, Florida Statutes, is renumbered as section 109.131, Florida Statutes, and, effective July 1, 2001, subsections (2) and (3) and paragraph (c) of subsection (6) of said section are amended to read:

109.131 ~~110.131~~ Other-personal-services temporary employment.—

(2) An agency may employ any *qualified* individual in other-personal-services temporary employment for *100 hours in any calendar month* ~~1,040 hours within any 12-month~~ period. An extension beyond a total of *100 hours in any calendar month period* ~~1,040 hours~~ within an agency for any individual *or category of individuals* requires the approval of the *Governor's Office of Policy and Budget for good cause* ~~agency head or a designee~~. ~~Approval of extensions shall be made in accordance with criteria established by the department. Each agency~~

~~shall maintain employee information as specified by the department regarding each extension of other-personal-services temporary employment.~~ The time limitation established by this subsection does not apply to board members, ~~consultants, seasonal employees,~~ institutional clients employed as part of their rehabilitation, or bona fide, degree-seeking students in accredited secondary or postsecondary educational programs.

(3) The department shall adopt rules providing that other-personal-services temporary employment in an employer-employee relationship shall be used for short-term tasks. Such rules shall specify the employment categories, terms, conditions, rate of pay, and frequency of other-personal-services temporary employment and the duration for which such employment may last,~~; specify criteria for approving extensions beyond the time limitation provided in subsection (2);~~ and prescribe recordkeeping and reporting requirements for other-personal-services employment.

(6)

(c) Notwithstanding the provisions of this section, the agency head or his or her designee may extend the other-personal-services employment of a health care practitioner licensed pursuant to chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, part I of chapter 464, chapter 466, chapter 468, chapter 483, chapter 486, or chapter 490 beyond 2,080 hours *per year* and may employ such practitioner on an hourly or other basis.

Section 27. *Section 110.151, Florida Statutes, is renumbered as section 109.151, Florida Statutes.*

Section 28. Section 110.152, Florida Statutes, is renumbered as section 109.152, Florida Statutes, and subsection (4) of said section is amended to read:

109.152 ~~110.152~~ Adoption benefits for state or water management district employees; parental leave.—

(4) Any employee of the state or of a water management district who has a child placed in the custody of the employee for adoption, and who continues to reside in the same household as the child placed for adoption, shall be granted parental leave for a period not to exceed 6 months as provided in s. *109.221* ~~110.221~~.

Section 29. *Section 110.15201, Florida Statutes, is renumbered as section 109.15201, Florida Statutes.*

Section 30. Section 110.1521, Florida Statutes, is renumbered as section 109.1521, Florida Statutes, and amended to read:

109.1521 ~~110.1521~~ Short title.—Sections *109.1521-109.1523* ~~110.1521-110.1523~~ may be cited as the "Family Support Personnel Policies Act."

Section 31. Section 110.1522, Florida Statutes, is renumbered as section 109.1522, Florida Statutes, and amended to read:

109.1522 ~~110.1522~~ Model rule establishing family support personnel policies.—The Department of Management Services shall develop a model rule establishing family support personnel policies for all executive branch agencies, excluding the State University System. "Family support personnel policies," for purposes of ss. *109.1521-109.1523* ~~110.1521-110.1523~~, means personnel policies affecting employees' ability to both work and devote care and attention to their families and includes policies on flexible hour work schedules, compressed time, job sharing, part-time employment, maternity or paternity leave for employees with a newborn or newly adopted child, and paid and unpaid family or administrative leave for family responsibilities.

Section 32. Section 110.1523, Florida Statutes, is renumbered as section 109.1523, Florida Statutes, and amended to read:

109.1523 ~~110.1523~~ Adoption of model rule.—The model rule shall be effective 20 days after having been filed with the Department of State and shall become part of the personnel rules of all applicable state agencies 150 days after the effective date of the rule to the extent that each agency does not, subsequent to such effective date, adopt a rule that sets forth the intent to specifically amend all or part of such model rule. Any employee or organization representing employees shall be considered a party for purposes of any rule required by ss. *109.1521-109.1523* ~~110.1521-110.1523~~, notwithstanding any provision of chapter 120 to the contrary.

Section 33. Section 110.161, Florida Statutes, is renumbered as section 109.161, Florida Statutes, and paragraph (a) of subsection (6) of said section is amended to read:

109.161 ~~110.161~~ State employees; pretax benefits program.—

(6) The Department of Management Services is authorized to administer the pretax benefits program established for all employees so that employees may receive benefits that are not includable in gross income under the Internal Revenue Code of 1986. The pretax benefits program:

(a) Shall allow employee contributions to premiums for the state group insurance program administered under s. *109.123* ~~110.123~~ to be paid on a pretax basis unless an employee elects not to participate.

Section 34. Section 110.171, Florida Statutes, is renumbered as section 109.171, Florida Statutes, and paragraph (c) of subsection (2) of said section is amended to read:

109.171 ~~110.171~~ State employee telecommuting program.—

(2) The department shall:

(c) Identify state employees who are participating in a telecommuting program and their job classifications through the state personnel payroll information subsystem created under s. *109.116* ~~110.116~~.

Section 35. *Section 110.181, Florida Statutes, is renumbered as section 109.181, Florida Statutes.*

Section 36. Section 110.191, Florida Statutes, is renumbered as section 109.191, Florida Statutes, and amended to read:

109.191 ~~110.191~~ State employee leasing.—

(1) In situations where the Legislature has expressly authorized the state, an agency, or the judicial branch as defined in s. *109.203* ~~110.203~~ to lease employees, the Executive Office of the Governor for the executive branch or the Chief Justice for the judicial branch may authorize any of the following actions related to such state employee leasing activities, provided that the direct cost of such actions is to be paid or reimbursed within 30 days after payment by the entity or person to whom the employees are leased:

(a) Create a separate budget entity from which leased employees shall be paid and transfer the positions authorized to be leased to that budget entity.

(b) Provide increases in the operating budget entity.

(c) Authorized lump-sum salary bonuses to leased employees; however, any lump-sum salary bonus above the automatic salary increases which may be contained in the General Appropriations Act must be funded from private sources.

(d) Approve increases in salary rate for positions which are leased; however, any salary rate above the automatic salary increases which may be contained in the General Appropriations Act must be funded from private sources.

(e) Waive any requirement for automatic salary increases which may be contained in the General Appropriations Act.

(2) Positions which are in the Senior Management Service System or the Selected Exempt Service System on the day before the state employee lease agreement takes effect shall remain in the respective system if the duties performed by the position during the assignment of the state employee lease agreement are comparable as determined by

the department. Those Senior Management Service System or Selected Exempt Service System positions which are not determined comparable by the department and positions which are in other pay plans on the day before the lease agreement takes effect shall have the same salaries and benefits provided to employees of the Office of the Governor pursuant to s. *109.205(2)(k)2* ~~110.205(2)(k)2~~.

Section 37. *Section 110.201, Florida Statutes, is renumbered as section 109.201, Florida Statutes.*

Section 38. Section 110.203, Florida Statutes, is renumbered as section 109.203, Florida Statutes, and subsections (11), (18), (19), (22), and (23) of said section are amended to read:

109.203 ~~110.203~~ Definitions.—For the purpose of this part and the personnel affairs of the state:

(11) "Pay plan" means a formal description of the philosophy, methods, procedures, and salary *schedules* ~~schedule~~ for competitively compensating employees at market-based rates for work performed.

(18) "Promotion" means ~~the~~ changing ~~of~~ the classification of an employee to a class having a higher maximum salary; or ~~the~~ changing ~~of~~ the classification of an employee to a class having the same or a lower maximum salary but a higher level of responsibility as determined by the Department of Management Services.

(19) "Demotion" means ~~the~~ changing ~~of~~ the classification of an employee to a class having a lower maximum salary; or ~~the~~ changing ~~of~~ the classification of an employee to a class having the same or a higher maximum salary but a lower level of responsibility as determined by the Department of Management Services.

(22) "Dismissal" means a disciplinary action taken by an agency against an employee resulting in termination of his or her employment for a violation of agency standards or for cause pursuant to s. *109.227* ~~110.227~~.

(23) "Suspension" means a disciplinary action taken by an agency against an employee to temporarily relieve the employee of his or her duties and place him or her on leave without pay for violation of agency standards or for cause pursuant to s. *109.227* ~~110.227~~.

Section 39. Effective July 1, 2001, subsections (22), (23), and (24) of section 109.203, Florida Statutes, as renumbered and amended by this act, are amended, and subsections (28) and (29) are added to said section, to read:

109.203 Definitions.—For the purpose of this part and the personnel affairs of the state:

(22) "Dismissal" means a disciplinary action taken by an agency *pursuant to s. 109.227* against an employee resulting in termination of his or her employment ~~for a violation of agency standards or for cause pursuant to s. 109.227~~.

(23) "Suspension" means a disciplinary action taken by an agency *pursuant to s. 109.227* against an employee to temporarily relieve the employee of his or her duties and place him or her on leave without pay ~~for violation of agency standards or for cause pursuant to s. 109.227~~.

(24) "Layoff" means termination of employment due to abolishment of positions necessitated by a shortage of funds or work, or a material change in the duties or organization of an agency*, including the outsourcing or privatization of an activity or function previously performed by career service employees*.

(28) "Firefighter" means a firefighter certified under chapter 633.

(29) "Law enforcement or correctional officer" means a law enforcement officer, special agent, correctional officer, correctional probationer officer, or institutional security specialist required to be certified under chapter 943.

Section 40. Section 109.2035, Florida Statutes, is created to read:

109.2035 Civil service classification and compensation program.—

(1) The Department of Management Services, in consultation with the Executive Office of the Governor and the Legislature, shall develop a civil service classification and compensation program. This program shall be developed for use by all state agencies and shall address all civil service classes.

(2) The program shall consist of the following:

(a) A position classification system using no more than 50 occupational groups and up to a six-class series structure for each occupation within an occupational group. Additional occupational groups may be established only by the Executive Office of the Governor after consultation with the Legislature.

(b) A pay plan which shall provide broad, market-based salary ranges for each occupational group.

(3) The following goals shall be considered in designing and implementing the program:

(a) The classification system must significantly reduce the need to reclassify positions due to work assignment and organizational changes by decreasing the number of classification changes required.

(b) The classification system must establish broad-based classes allowing flexibility in organizational structure and must reduce the levels of supervisory classes.

(c) The classification system and pay plan must emphasize pay administration and job performance evaluation by management rather than use of the classification system to award salary increases.

(d) The pay administration system must contain provisions to allow managers the flexibility to move employees through the pay ranges and provide for salary increase additives and lump-sum bonuses.

(4) The classification system shall be structured such that each confidential, managerial, and supervisory employee shall be included in the Selected Exempt Service, in accordance with part V of this chapter.

(5) The Department of Management Services shall submit the proposed design of the civil service classification and compensation program to the Executive Office of the Governor, the presiding officers of the Legislature, and the appropriate legislative fiscal and substantive standing committees on or before December 1, 2001.

(6) The department shall establish, by rule, guidelines with respect to, and shall delegate, where appropriate, to the employing agencies the authority to administer, the following:

(a) Shift differentials.

(b) On-call fees.

(c) Hazardous-duty pay.

(d) Advanced appointment rates.

(e) Salary increase and decrease corrections.

(f) Lead worker pay.

(g) Temporary special duties pay.

(h) Trainer additive pay.

(i) Competitive area differentials.

(j) Coordinator pay.

(k) Critical market pay.

The employing agency must use such pay additives as are appropriate within the guidelines established by the department and shall advise the department in writing of the plan for implementing such pay additives prior to the implementation date. Any action by an employing agency to implement temporary special duties pay, competitive area differentials, or critical market pay may be implemented only after the department has reviewed and recommended such action; however, an employing agency

may use temporary special duties pay for up to 3 months without prior review by the department. The department shall annually provide a summary report of the pay additives implemented pursuant to this section.

Section 41. Section 110.205, Florida Statutes, is renumbered as section 109.205, Florida Statutes, paragraphs (h) and (u) of subsection (2) and subsection (3) of said section are amended and subsections (7) and (8) are added to said section, and, effective July 1, 2001, paragraphs (v) and (w) are added to subsection (2) of said section, to read:

109.205 ~~110.205~~ Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(h) All positions which are established for a limited period of time for the purpose of conducting a special study, project, or investigation and any person paid from an other-personal-services appropriation. Unless otherwise fixed by law, the salaries for such positions and persons shall be set in accordance with rules established by the employing agency for other-personal-services payments pursuant to s. *109.131* ~~110.131~~.

(u) Positions which are leased pursuant to a state employee lease agreement expressly authorized by the Legislature pursuant to s. *109.191* ~~110.191~~.

(v) Managerial employees, as defined in s. 447.203(4), confidential employees, as defined in s. 447.203(5), and supervisory employees who spend the majority of their time communicating with, motivating, training, and evaluating employees, and planning and directing employees' work, and who have the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline subordinate employees or effectively recommend such action, including all employees serving as supervisors, administrators, and directors, except employees also designated as special risk or special risk administrative support and except administrative law judges and hearing officers. Unless otherwise fixed by law, the department shall establish the salary range and benefits for these positions in accordance with the rules of the Selected Exempt Service.

(w) Any employee exempted and moved to the Selected Exempt Service by way of a collective bargaining agreement.

(3) PARTIAL EXEMPTION OF DEPARTMENT OF LAW ENFORCEMENT.—Employees of the Department of Law Enforcement shall be subject to the provisions of s. *109.227* ~~110.227~~, except in matters relating to transfer.

(7) If an employee is transferred or otherwise moves from the Career Service System into the Selected Exempt Service, all of the employee's unused annual leave and unused sick leave shall carry forward with the employee.

(8) If an employee is transferred or otherwise moves from the Career Service System into the Selected Exempt Service on July 1, 2001, all of the employee's unused compensatory leave shall carry forward with the employee.

Section 42. *Sections 110.207, 110.209, and 110.21, Florida Statutes, are renumbered as sections 109.207, 109.209, and 109.21, Florida Statutes, respectively.*

Section 43. *Effective June 30, 2002, sections 109.207 and 109.209, Florida Statutes, are repealed.*

Section 44. Section 110.211, Florida Statutes, is renumbered as section 109.211, Florida Statutes, and amended to read:

109.211 ~~110.211~~ Recruitment.—

(1) Recruiting shall be planned and carried out in a manner that assures open competition based upon current and projected employing agency needs, taking into consideration the number and types of positions to be filled and the labor market conditions, with special emphasis placed on recruiting efforts to attract minorities, women, or other groups that are underrepresented in the workforce of the employing agency.

(2) Recruiting efforts to fill current or projected vacancies shall be *carried out in the sound discretion of the agency head* ~~the responsibility of the employing agency~~.

(3) *Recruiting shall provide efficiency in advertising and may be assisted by a contracted vendor responsible for maintenance of the personnel data.* ~~The department shall provide for executive-level recruitment and a recruitment enhancement program designed to encourage individuals to seek employment with state government and to promote better public understanding of the state as an employer.~~

~~(4) An application for a publicly announced vacancy must be made directly to the employing agency.~~

(4)~~(5)~~ All recruitment literature ~~printed after July 1, 1979,~~ involving state position vacancies shall contain the phrase "An Equal Opportunity Employer/Affirmative Action Employer."

~~(6) The department shall develop model recruitment rules which may be used by employing agencies. Such rules must be approved by the Administration Commission before their adoption by the department. Employing agencies electing to adopt recruitment rules that are inconsistent with the model rules must consult with and submit such rules to the department for review. Such rules must also be approved by the Administration Commission before their adoption by the employing agencies.~~

Section 45. Section 110.213, Florida Statutes, is renumbered as section 109.213, Florida Statutes, and amended to read:

109.213 ~~110.213~~ Selection.—

~~(1) The department shall have the responsibility for determining guidelines for selection procedures to be utilized by the employing agencies.~~

~~(2) Any selection procedure utilized in state employment shall be designed to provide maximum validity, reliability, and objectivity; shall be based on adequate job analysis to ensure job relatedness; and shall measure the relative ability, knowledge, and skill needed for entry to a job.~~

(1)~~(3)~~ Selection for appointment from among the most qualified *candidates* ~~available eligibles~~ shall be the *sole* responsibility of the employing agency. *Effective July 1, 2001, all new employees must successfully complete at least a 1-year probationary period before attainment of permanent status.*

(2) Selection shall reflect efficiency and simplicity in hiring procedures. The agency head or his or her designee shall be required to document the qualifications of the selected candidate to ensure that the candidate meets the minimum qualifications and possesses the requisite knowledge, skills, and abilities for the position. No other documentation or justification shall be required prior to selecting a candidate for a position.

~~(4) The department shall develop model selection rules that may be used by employing agencies. Such rules must be approved by the Administration Commission before their adoption by the department. Employing agencies electing to adopt selection rules that are inconsistent with the model rules shall consult with and submit such rules to the department for review. Such rules must also be approved by the Administration Commission before their adoption by the employing agencies.~~

Section 46. *Sections 110.2135, 110.215, and 110.217, Florida Statutes, are renumbered as sections 109.2135, 109.215, and 109.217, Florida Statutes, respectively.*

Section 47. Section 110.219, Florida Statutes, is renumbered as section 109.219, Florida Statutes, and paragraph (c) of subsection (5) of

said section is amended, and, effective July 1, 2001, subsection (6) is added to said section, to read:

109.219 ~~110.219~~ Attendance and leave; general policies.—

(5) Rules shall be adopted by the department in cooperation and consultation with the agencies to implement the provisions of this section; however, such rules must be approved by the Administration Commission prior to their adoption. Such rules must provide for, but need not be limited to:

(c) Holidays as provided in s. *109.117* ~~110.117~~.

(6) The leave benefits provided to Senior Management Service employees shall not exceed those provided to employees in the Selected Exempt Service.

Section 48. *Section 110.221, Florida Statutes, is renumbered as section 109.221, Florida Statutes.*

Section 49. Section 110.224, Florida Statutes, is renumbered as section 109.224, Florida Statutes, and amended to read:

109.224 ~~110.224~~ *Public employee* ~~Review and~~ performance *evaluation* ~~planning~~ system.—A *public employee* ~~review and~~ performance *evaluation* ~~planning~~ system shall be established as a basis *to evaluate and improve* ~~for improving~~ the performance of the state's workforce, ~~to provide documentation in support of recommendations for salary increases, promotions, demotions, reassignments, or dismissals;~~ to inform employees of strong and weak points in the employee's performance, *to identify* ~~improvements expected, and current and future~~ training needs*, and to award lump-sum bonuses in accordance with s. 109.1245(2)*~~; and to assist in determining the order of layoff and reemployment~~.

(1) Upon original appointment, promotion, demotion, or reassignment, *a job description of the position assigned* ~~each career service employee~~ must be *made available to the career service employee* ~~given a statement of the work expectations and performance standards applicable to the position~~. The *job description may be made available in an electronic format.* ~~statement may be included in the position description or in a separate document. An employee will not be required to meet work expectations or performance standards that have not been furnished in writing to the employee.~~

(2) Each *employee must have a* ~~employee's~~ performance *evaluation* ~~must be reviewed~~ at least annually, and the employee must receive *a copy* ~~an oral and written assessment~~ of his or her performance *evaluation*. The *performance evaluation* ~~assessment~~ may include a plan of ~~corrective~~ action for improvement of the employee's performance based on the work expectations or performance standards applicable to the position *as determined by the agency head*.

(3) The department may adopt rules to administer the *public employee* ~~review and~~ performance *evaluation* ~~planning~~ system which establish procedures for performance evaluation, ~~procedures to be followed in case of failure to meet performance standards,~~ review periods, and forms.

Section 50. Section 110.227, Florida Statutes, is renumbered as section 109.227, Florida Statutes, and subsection (2) of said section is amended, and, effective July 1, 2001, subsections (1) and (3) and paragraph (a) of subsection (5) of said section are amended, present subsections (6) and (7) are amended and renumbered, and a new subsection (6) is added to said section, and, effective January 1, 2002, subsection (4) and paragraph (b) of subsection (5) of said section are amended, to read:

109.227 ~~110.227~~ Suspensions, dismissals, reductions in pay, demotions, layoffs, transfers, and grievances.—

(1) Any employee *other than a law enforcement or correctional officer or a firefighter* who has permanent status in the career service may only be suspended or dismissed for *reasonable* cause. *Reasonable* cause shall *be a determination made within the sound discretion of the agency head and includes* ~~include~~, but *is* not ~~be~~ limited to, negligence, inefficiency or inability to perform assigned duties, insubordination, ~~willful~~ violation of the provisions of law or agency rules, conduct unbecoming a public employee, misconduct, habitual drug abuse, or conviction of any crime ~~involving moral turpitude~~. *Suspension or dismissal based upon patronage, discrimination, or arbitrariness or for any conduct that is otherwise protected under state or federal law shall constitute an abuse of sound discretion. A law enforcement or correctional officer or a firefighter who has permanent status in the career service may only be suspended or dismissed for just cause. The* ~~Each~~ agency head shall ensure that all employees of the agency *have reasonable access to the agency's personnel manual* ~~are completely familiar with the agency's established procedures on disciplinary actions and grievances~~.

(2) The department shall establish rules and procedures for the suspension, reduction in pay, transfer, layoff, demotion, and dismissal of employees in the career service. *Except with regard to law enforcement or correctional officers or firefighters, rules regarding layoff procedures shall not include any system whereby a career service employee with greater seniority has the option of selecting a different position not being eliminated, but either vacant or already occupied by an employee of less seniority, and taking that position, commonly referred to as "bumping."* Such rules shall be approved by the Administration Commission prior to their adoption by the department. *This subsection does not prohibit collective bargaining units from seeking to incorporate "bumping" in their collective bargaining agreements.*

(3)(a) *With regard to law enforcement or correctional officers or firefighters,* when a layoff becomes necessary, such layoff shall be conducted within the competitive area identified by the agency head and approved by the Department of Management Services. Such competitive area shall be established taking into consideration the similarity of work; the organizational unit, which may be by agency, department, division, bureau, or other organizational unit; and the commuting area for the work affected.

(b) Layoff procedures shall be developed to establish the relative merit and fitness of employees and shall include a formula for uniform application among *potentially adversely affected employees, or, with respect to law enforcement or correctional officers or firefighters, among* all employees in the competitive area, taking into consideration the type of appointment, the length of service, and the evaluations of the employee's performance within the last 5 years of employment.

(4) Any permanent career service employee subject to reduction in pay, transfer, layoff, or demotion from a class in which he or she has permanent status in the Career Service System shall be notified in writing by the agency prior to its taking such action. The notice may be delivered to the employee personally or may be sent by certified mail with return receipt requested. *As of January 1, 2002,* such actions shall be appealable to the *circuit court, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240* ~~Public Employees Relations Commission, pursuant to s. 447.208 and rules adopted by the commission~~. *Appeals based on the protections provided by the Whistle-blower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.*

(5)(a) Any permanent career service employee who is subject to suspension or dismissal shall receive written notice of such action at least 10 days prior to the date such action is to be taken. *Subsequent to such notice, and prior to the date the action is to be taken, an affected employee other than a law enforcement or correctional officer or a firefighter shall be given an opportunity to appear before the agency head or the agency head's designee to rebut the conclusion that reasonable grounds exist for the suspension or dismissal.* Subsequent to such notice, and prior to the date the action is to be taken, *an* ~~the~~ affected *law enforcement or correctional officer or a firefighter* ~~employee~~ shall be given an opportunity to appear before the agency or official taking the action to answer orally and in writing the charges against him or her. The notice to the employee required by this paragraph may be delivered to the employee personally or may be sent by certified mail with return receipt requested. An employee who is suspended or dismissed shall be entitled to a hearing before the Public Employees Relations Commission or its designated agent pursuant to s. 447.208 and rules adopted by the commission.

(b) In extraordinary situations such as when the retention of a permanent career service employee would result in damage to state property, would be detrimental to the best interest of the state, or would result in injury to the employee, a fellow employee, or some other person, such employee may be suspended or dismissed without 10 days' prior notice, provided that written or oral notice of such action, evidence of the reasons therefor, and an opportunity to rebut the charges are furnished to the employee prior to such dismissal or suspension. Such notice may be delivered to the employee personally or may be sent by certified mail with return receipt requested. Agency compliance with the foregoing procedure requiring notice, evidence, and an opportunity for rebuttal must be substantiated. *Any* ~~any~~ employee who is suspended or dismissed *on or after January 1, 2002,* pursuant to the provisions of this paragraph shall be entitled to a hearing before the *circuit court, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240* ~~Public Employees Relations Commission or its designated agent pursuant to s. 447.208, except that such hearing shall be held no more than 20 days after the filing of the notice of appeal by the employee~~. *Appeals based on the protections provided by the Whistleblower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.*

(6) For any alleged adverse agency action against an employee, other than a law enforcement or correctional officer or a firefighter, occurring on or after July 1, 2001, the adversely affected employee bears the burden of proof to establish by preponderance of the evidence that the agency head abused his or her discretion in suspending, dismissing, reducing the pay of, demoting, laying off, or transferring that employee and that no reasonable cause existed for the alleged adverse action taken by the agency, or that the alleged adverse action was in violation of s. 109.233. For any alleged adverse agency action against a law enforcement or correctional officer or a firefighter occurring on or after July 1, 2001, the agency must prove just cause for suspending, dismissing, reducing the pay of, demoting, laying off, or transferring that employee.

(7)~~(6)~~ A grievance process shall be available to career service employees. A grievance is defined as the dissatisfaction that occurs when an employee *believes* ~~thinks or feels~~ that any condition affecting the employee is unjust, inequitable, or a hinderance to effective operation, or creates a problem, except that an employee shall not have the right to file a grievance against performance evaluations unless *the employee alleges* ~~it is alleged~~ that the evaluation is based on factors other than the employee's performance. Claims of discrimination and sexual harassment, suspensions, reductions in pay, transfers, layoffs, demotions, and dismissals are not subject to the career service grievance process.

(8)~~(7)~~ The department shall adopt rules for administration of the grievance process for career service employees. Such rules shall establish agency grievance procedures, eligibility, filing deadlines, forms, and review and evaluation governing the grievance process.

Section 51. Effective January 1, 2002, paragraph (a) of subsection (5) of section 109.227, Florida Statutes, as renumbered and amended by this act, is amended to read:

109.227 Suspensions, dismissals, reductions in pay, demotions, layoffs, transfers, and grievances.—

(5)(a) Any permanent career service employee who is subject to suspension or dismissal shall receive written notice of such action at least 10 days prior to the date such action is to be taken. Subsequent to such notice, and prior to the date the action is to be taken, an affected employee other than a law enforcement or correctional officer or a firefighter shall be given an opportunity to appear before the agency head or the agency head's designee to rebut the conclusion that reasonable grounds exist for the suspension or dismissal. Subsequent to such notice, and prior to the date the action is to be taken, an affected law enforcement or correctional officer or a firefighter shall be given an opportunity to appear before the agency or official taking the action to answer orally and in writing the charges against him or her. The notice to the employee required by this paragraph may be delivered to the employee personally or may be sent by certified mail with return receipt requested. *An* ~~an~~ employee who is suspended or dismissed *on or after January 1, 2002,* shall be entitled to a hearing before the *circuit court, or the aggrieved employee may request voluntary binding arbitration as provided in s. 109.240* ~~Public Employees Relations Commission or its designated agent pursuant to s. 447.208 and rules adopted by the commission~~. *Appeals based on the protections provided by the Whistleblower's Act, ss. 112.3187-112.31895, must be filed with the Commission on Human Relations as provided for in that act.*

Section 52. Section 110.233, Florida Statutes, is renumbered as section 109.233, Florida Statutes, and paragraph (a) of subsection (4) of said section is amended to read:

109.233 ~~110.233~~ Political activities and unlawful acts prohibited.—

(4) As an individual, each employee retains all rights and obligations of citizenship provided in the Constitution and laws of the state and the Constitution and laws of the United States. However, no employee in the career service shall:

(a) Hold, or be a candidate for, public office while in the employment of the state or take any active part in a political campaign while on duty or within any period of time during which the employee is expected to perform services for which he or she receives compensation from the state. However, when authorized by his or her agency head and approved by the department ~~of Management Services~~ as involving no interest which conflicts or activity which interferes with his or her state employment, an employee in the career service may be a candidate for or hold local public office. The department ~~of Management Services~~ shall prepare and make available to all affected personnel who make such request a definite set of rules and procedures consistent with the provisions herein.

Section 53. Section 110.235, Florida Statutes, is renumbered as section 109.235, Florida Statutes, and subsection (1) of said section is amended to read:

109.235 ~~110.235~~ Training.—

(1) ~~It is the intent of the Legislature that~~ State agencies shall implement training programs that encompass modern management principles, and that provide the framework to develop human resources through empowerment, training, and rewards for productivity enhancement; to continuously improve the quality of services; and to satisfy the expectations of the public.

Section 54. Section 109.237, Florida Statutes, is created to read:

109.237 Office of Employee Relations.—

(1) There is created within the Department of Management Services the Office of Employee Relations, hereinafter referred to as the "office." The Governor shall appoint an executive director of the office. The executive director shall serve at the pleasure of and report to the Governor. The executive director must be a member in good standing of The Florida Bar, have a minimum of 5 years of legal experience, and be knowledgeable regarding and have a background in the laws regarding state employees, the Career Service System, employee bargaining units, and collective bargaining. The executive director shall serve on a full-time basis, and shall personally, or through a representative of the office, carry out the purposes and functions of the office in accordance with state and federal law. The executive director shall be responsible for the administrative functions of the office. The executive director shall make all planning, personnel, and budgeting decisions with regard to the office. The executive director shall be solely responsible for administering the voluntary binding arbitration program provided for by s. 109.240. The executive director, or the executive director's designee, shall be responsible for establishing and implementing a training and education program for all the office's employees with regard to their duties and responsibilities, procedural requirements, and applicable law, as appropriate for each employee's position.

(2) The executive director shall employ a general counsel and an administrative assistant to meet immediate staffing needs. The executive director, general counsel, and administrative assistant shall be paid annual salaries to be fixed by law. Such salaries shall be paid in equal

monthly installments. The executive director, general counsel, and administrative assistant shall be reimbursed for necessary travel expenses, as provided in s. 112.061. Effective December 1, 2001, the executive director shall have the authority to employ such personnel as is necessary to carry out the duties and responsibilities of the office. These personnel shall be paid annual salaries fixed by law, in equal monthly installments, and such personnel shall be reimbursed for necessary travel expenses as provided in s. 112.061.

(3) The office, in the performance of its powers and duties under this part, shall not be subject to control, supervision, or direction of the Department of Management Services. The office shall be a separate budget entity within the department's legislative budget request.

(4) The Department of Management Services shall provide the necessary office space, furniture, equipment, and supplies necessary for the startup of the office. The department shall further provide administrative support and service to the office to the extent requested by the executive director within the available resources of the department. The executive director may request the assistance of the Inspector General of the Department of Management Services in providing auditing services, and the Office of General Counsel of the department may provide assistance in rulemaking and other matters as needed to assist the office.

(5) The office shall make such expenditures, including expenditures for personal services and rent at the seat of government and elsewhere, for law books, books of reference, periodicals, furniture, equipment, and supplies, and for printing and binding, as may be necessary in exercising its authority and powers and carrying out its duties and responsibilities. All such expenditures by the office shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the executive director.

(6) The office may charge for copies of records and documents as provided for in s. 119.07.

(7) The office shall maintain and keep open during reasonable business hours an office at which its public records shall be kept. The office may conduct hearings at any place within the state.

(8) The office shall have a seal for authentication of its orders and proceedings, upon which shall be inscribed the words "State of Florida—Office of Employee Relations—Seal" and which shall be judicially noticed.

(9) The office is expressly authorized to provide by rule for, and to destroy, obsolete records of the office.

(10) Any hearing held or oral argument heard by the office pursuant to chapter 120 or this chapter shall be open to the public.

(11) Any hearing held by the office under this part shall be conducted in accordance with the provisions of ss. 120.569 and 120.57 by an employee of the office, or a person designated by the executive director, who is a member in good standing of The Florida Bar.

Section 55. (1) Except as otherwise provided, effective January 1, 2002, section 109.240, Florida Statutes, is created to read:

109.240 Voluntary binding arbitration.—

(1) Upon receipt of notice of an adverse agency action, any permanent career service employee may request voluntary binding arbitration administered by the Office of Employee Relations. As used in this section, "adverse agency action" means the suspension, dismissal, reduction in pay, demotion, layoff, or transfer of an employee. Any eligible employee choosing to participate in voluntary binding arbitration must file a written request for arbitration with the office no later than 14 days after the receipt of notice of the adverse agency action.

(2) The arbitration request must be submitted on a form prescribed by the office by rule. The form must be signed by the employee and must include stipulations that:

(a) The employee is voluntarily participating in binding arbitration pursuant to this section.

(b) The arbitration order is final and may not be set aside except for an error in law that is apparent on the record.

(c) The employee will faithfully abide by the arbitration order unless otherwise determined by a court of competent jurisdiction.

(3) Upon receipt of the arbitration request, the office shall provide written notice to the agency against which a request is made regarding the employee request for binding arbitration. The agency must participate in the requested binding arbitration. Binding arbitration shall not be conducted pursuant to this section unless the employee requests it.

(4)(a) The employee bears the burden of establishing by a preponderance of the evidence that the agency action complained of was adverse, that the agency head abused his or her discretion in taking the adverse agency action, and that no reasonable cause existed for the adverse agency action. This paragraph does not apply to law enforcement or correctional officers or firefighters.

(b) With regard to law enforcement or correctional officers or firefighters, the employer must prove just cause for the adverse agency action.

(5)(a) The voluntary binding arbitration shall be heard and determined by an employee panel that consists of three randomly selected career service employees chosen by the office in a manner to ensure a balanced representation of employees from each pay classification. At least one of the employees selected to serve on an employee panel must be a member of the same pay classification as the employee requesting binding arbitration. This paragraph does not apply to law enforcement or correctional officers or firefighters.

(b) With regard to law enforcement or correctional officers or firefighters, the voluntary binding arbitration shall be heard and determined by an employee panel that consists of three career service employees selected as follows:

1. One panel member who is a member of the same pay classification as the employee requesting the voluntary binding arbitration, selected by that employee.

2. One panel member who is a member of the same pay classification as the employee requesting the voluntary binding arbitration, selected by the employer.

3. One panel member jointly selected by the other two panel members. If the two panel members do not agree on the jointly selected panel member, within 10 working days after the appeal is submitted, the parties shall jointly request the Federal Mediation and Conciliation Service to furnish a panel of seven names from which each party shall have the option, within 5 days of receipt, of striking three names in alternating fashion. The seventh or remaining name shall serve as the third panel member. The parties shall jointly notify the panel member of his or her selection. Either party may object to all names on the list, provided the objection is made prior to the commencement of the striking process. If this occurs, the objecting party may request the Federal Mediation and Conciliation Service to furnish another list of names. No more than two lists may be requested.

(c) The employee panel shall receive procedural direction and legal advice from the arbitrator appointed by the office.

(d) No employee currently employed or employed within the preceding 6 months by the agency participating in the binding arbitration shall be selected for an employee panel. Employees selected to serve on an employee panel shall hear all evidence submitted by the parties in arbitration and their decision shall be governed by the statutory burden of proof. The office shall reimburse agencies for the daily tasks of each agency employee that serves on an employee panel.

(e) The employee panel shall make all findings of fact and determination of claims. The arbitrator shall draft the arbitration decision for submission to the members of the employee panel for their approval and signatures. Unless otherwise provided in the decision, the decision shall become final 10 days after its execution by the panel.

(6) Any party may be represented by counsel or another appointed representative. The arbitrator and employee panel must complete all arbitration of the employee's claims raised in the request within 60 days after receipt of the claim. The arbitrator may extend the 60-day period upon request of the parties or at the request of one party, after a hearing on that party's request for extension.

(7)(a) The arbitrator selected by the office shall not be an employee within the Career Service System, the Select Management Service, or the Selected Exempt Service. Each selected arbitrator must, at a minimum, meet the following requirements:

1. Completion of a Florida Supreme Court certified circuit or county arbitration program, or other arbitration program approved by the office, in addition to a minimum of 1 day of training in the application of this chapter and chapter 447 and any rules adopted thereunder.

2. Compliance with the Code of Ethics for Arbitrators in Employment Disputes published by the American Arbitration Association and the American Bar Association in 1977, as amended.

3. Membership in good standing in The Florida Bar.

(b) The arbitrator shall have authority to commence and adjourn the arbitration hearing. The arbitrator shall not have authority to hold any person in contempt or to in any way impose sanctions against any person. The arbitrator shall provide assistance to the employee panel on questions of law.

(c) The arbitrator shall schedule all arbitration proceedings, including the date, time, and location of such proceedings and provide notice of the arbitration proceeding to the parties at least 5 days in advance of the hearing date, unless otherwise agreed to by the parties. The arbitrator has the discretion to grant a continuance for reasonable cause.

(d) The arbitrator may set a preliminary conference and require all parties to file a statement of position prior to the conference. The statement of position may include stipulations of the parties to uncontested facts and applicable law, citations to all governing statutory or regulatory laws that control the controversy, a list of issues of fact and law that are in dispute, any proposals designed to expedite the arbitration process, a list of documents exchanged by the parties and a schedule for the delivery of any additional relevant documents, identification of witnesses expected to be called during the arbitration proceeding accompanied by a short summary of their expected testimony, and any other matters specified by the arbitrator.

(8) The duties of the office in administering voluntary binding arbitration pursuant to this section include, but are not limited to, the following:

(a) Supporting the arbitration process, including the filing and noticing of all arbitration requests, objections, and other party communications; the selection of the arbitrator; and the design and operation of the employee panel pool.

(b) Providing for the selection of the employee panel and arbitrator, which includes:

1. Providing selection notice to all parties, the arbitrator, and the employee panel participants.

2. Securing a signed disclosure statement from each appointed arbitrator and selected employee describing any circumstances likely to affect impartiality, including any bias or any financial or personal interest with either party or any present or past relationship with the employee seeking binding arbitration, and making these disclosure statements available to the parties. The duty to disclose shall be a continuing obligation throughout the arbitration process.

3. Filling vacancies.

4. Compensating arbitrators, provided that an arbitrator's fees and expenses shall not exceed $500 per day for case preparation, prehearing conferences, hearings, and preparation of the arbitration order.

5. Making an electronic recording of each arbitration proceeding, including preconference hearings, even when a party chooses to make a stenographic recording of the arbitration proceeding at that party's expense.

(c) Publishing the final arbitration order submitted to the office by both parties and the arbitrator.

(9) The office shall maintain records of each dispute submitted to voluntary binding arbitration, including the recordings of the arbitration hearings. All records maintained by the office under this section shall be public records and shall be available for inspection upon reasonable notice.

(10) The arbitration proceedings shall be governed by the following procedural requirements:

(a) A party may object to the arbitrator or any employee on the panel based on the arbitrator's or employee's past or present, direct or indirect, relationship with either party or either party's attorney, whether that relationship was or is financial, professional, or social. The arbitrator shall consider any objection to a panel employee, determine its validity, and notify the parties of his or her determination. If the objection is determined valid, the office shall assign another employee from the employee panel pool. The office shall consider any objection to the arbitrator, determine its validity, and notify the parties of its determination. If the objection is determined valid, the office shall appoint another arbitrator.

(b) The arbitrator has the power to issue subpoenas, and to effect discovery on the written request of any party by any means available to the courts and in the manner provided in the Florida Rules of Civil Procedure, including the imposition of sanctions, excluding contempt. Fees for attendance of witnesses shall be the same as that provided in civil actions in circuit courts of this state.

(c) At all arbitration proceedings, the parties may present oral and written testimony, present witnesses and evidence relevant to the dispute, cross-examine witnesses, and be represented by counsel. The arbitrator shall record the arbitration hearing and shall have the power to administer oaths.

(d) The arbitrator may continue a hearing on his or her own motion or upon the request of the party for good cause shown. A request for continuance by the employee constitutes a waiver of the 60-day time period for completion of all arbitration proceedings authorized under this section.

(e) The employee panel shall render its decision within 10 days after the closing of the hearing. The decision shall be in writing on a form prescribed or adopted by the office. The arbitrator shall send a copy of the decision to the parties by registered mail.

(f) Unless otherwise provided, the arbitration decision rendered by the employee panel and any appeals thereof are exempt from the provisions of chapter 120.

(11)(a) The office shall establish rules of procedure governing the arbitration process. Such rules shall include, but are not limited to:

1. The exchange and filing of information among the parties.

2. Discovery.

3. Offering evidence.

4. Calling and excluding witnesses.

5. Submitting evidence by affidavit.

6. Attendance of the parties and witnesses.

7. The order of proceedings.

(b) The office may adopt additional rules necessary to implement this section.

(12) Either party may make application to the circuit court for the county in which one of the parties resides or has a place of business, or

the county where the arbitration hearing was held, for an order confirming, vacating, or modifying the arbitration decision. Such application must be filed within 30 days after the later of the moving party's receipt of the written decision or the date the decision becomes final. Upon filing such application, the moving party shall mail a copy to the office and, upon entry of any judgment or decree, shall mail a copy of such judgment or decree to the office. A review of such application to circuit court shall be limited to review on the record and not de novo, of:

(a) Any alleged failure of the arbitrator to comply with the applicable rules of procedure or evidence.

(b) Any alleged partiality or misconduct by an arbitrator prejudicing the rights of any party.

(c) Whether the decision reaches a result contrary to the United States Constitution or the Florida Constitution.

If the arbitrator and employee panel fail to state findings or reasons for the stated decision, or the findings and reasons are inadequate, the court shall search the record to determine whether a basis exists to uphold the decision.

(13) The office, the arbitrator, and the employee panel shall have absolute immunity from liability arising from the performance of their duties while acting within the scope of their appointed function in any arbitration conducted under this section.

(2) For purposes of rulemaking by the Office of Employee Relations, subsection (11) of s. 109.240, Florida Statutes, as created by this section, shall take effect July 1, 2001.

Section 56. Section 110.401, Florida Statutes, is renumbered as section 109.401, Florida Statutes, and amended to read:

109.401 ~~110.401~~ Declaration of policy.~~—It is the intent of~~ This part *creates* ~~to create~~ a uniform system for attracting, retaining, and developing highly competent senior-level managers at the highest executive-management-level agency positions in order for the highly complex programs and agencies of state government to function effectively, efficiently, and productively. The Legislature recognizes that senior-level management is an established profession and that the public interest is best served by developing and refining the management skills of its Senior Management Service employees. *Accordingly* ~~To this end~~, training and management-development programs are regarded as a major administrative function within agencies.

Section 57. Section 110.402, Florida Statutes, is renumbered as section 109.402, Florida Statutes, and subsection (2) of said section is amended to read:

109.402 ~~110.402~~ Senior Management Service; creation, coverage.—

(2) The Senior Management Service shall be limited to those positions which are exempt from the Career Service System by s. *109.205(2)* ~~110.205(2)~~ and for which the salaries and benefits are set by the department in accordance with the rules of the Senior Management Service.

Section 58. Section 110.403, Florida Statutes, is renumbered as section 109.403, Florida Statutes, and amended to read:

109.403 ~~110.403~~ Powers and duties of the Department of Management Services.—

(1) ~~In order to implement the purposes of this part,~~ The department ~~of Management Services~~, after approval by the Administration Commission, shall adopt and amend rules *that provide* ~~providing~~ for:

(a) A system for employing, promoting, or reassigning managers that is responsive to organizational or program needs. In no event shall the number of positions included in the Senior Management Service exceed 0.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Senior Management Service which would exceed the limitation established in this paragraph. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs. Employees in the Senior Management Service shall serve at the pleasure of the agency head and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the agency head. Such personnel actions are exempt from the provisions of chapter 120.

(b) A performance appraisal system which shall take into consideration individual and organizational efficiency, productivity, and effectiveness.

(c) A classification plan and a salary and benefit plan that provides appropriate incentives for the recruitment and retention of outstanding management personnel and provides for salary increases based on performance.

(d) A system of rating duties and responsibilities for positions within the Senior Management Service and the qualifications of candidates for those positions.

(e) A system for documenting actions taken on agency requests for approval of position exemptions and special pay increases.

(f) Requirements regarding recordkeeping by agencies with respect to Senior Management Service positions. Such records shall be audited periodically by the department ~~of Management Services~~ to determine agency compliance with the provisions of this part and *with* the *department's* rules ~~of the Department of Management Services~~.

(g) Other procedures relating to personnel administration to carry out the purposes of this part.

(h) A program of affirmative and positive action that will ensure full utilization of *the rich diversity of Florida's human resources* ~~women and minorities~~ in Senior Management Service positions.

(2) The powers, duties, and functions of the department ~~of Management Services~~ shall include responsibility for the policy administration of the Senior Management Service.

(3) The department ~~of Management Services~~ shall have the following additional responsibilities:

(a) To establish and administer a professional development program which shall provide for the systematic development of managerial, executive, or administrative skills.

(b) To promote public understanding of the purposes, policies, and programs of the Senior Management Service.

(c) To approve contracts of employing agencies with persons engaged in the business of conducting multistate executive searches to identify qualified and available applicants for Senior Management Service positions for which the department ~~of Management Services~~ sets salaries in accordance with the classification and pay plan. Such contracts may be entered by the agency head only after completion of an unsuccessful in-house search. The department ~~of Management Services~~ shall establish, by rule, the minimum qualifications for persons desiring to conduct executive searches, including a requirement for the use of contingency contracts. *These* ~~Such~~ rules shall ensure that such persons possess the requisite capacities to perform effectively at competitive industry prices. *These* ~~The Department of Management Services shall make the~~ rules *shall also* ~~required pursuant to this paragraph in such a manner as to~~ comply with state and federal laws and regulations governing equal opportunity employment.

(4) All policies and procedures adopted by the department ~~of Management Services~~ regarding the Senior Management Service shall comply with all federal regulations necessary to permit the state agencies to be eligible to receive federal funds.

(5) The department ~~of Management Services~~ shall adopt, by rule, procedures for Senior Management Service employees that require disclosure to the agency head of any application for or offer of employment, gift, contractual relationship, or financial interest with

any individual, partnership, association, corporation, utility, or other organization, whether public or private, doing business with or subject to regulation by the agency.

Section 59. Effective July 1, 2001, paragraph (a) of subsection (1) of section 109.403, Florida Statutes, as renumbered and amended by this act, is amended to read:

109.403 Powers and duties of the Department of Management Services.—

(1) The department, after approval by the Administration Commission, shall adopt and amend rules which provide for:

(a) A system for employing, promoting, or reassigning managers that is responsive to organizational or program needs. In no event shall the number of positions included in the Senior Management Service exceed *1.5* ~~0.5~~ percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Senior Management Service which would exceed the limitation established in this paragraph. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs. Employees in the Senior Management Service shall serve at the pleasure of the agency head and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the agency head. Such personnel actions are exempt from the provisions of chapter 120.

Section 60. *Section 110.405, Florida Statutes, is renumbered as section 109.405, Florida Statutes.*

Section 61. Section 110.406, Florida Statutes, is renumbered as section 109.406, Florida Statutes, and paragraph (a) of subsection (2) and subsection (3) of said section are amended to read:

109.406 ~~110.406~~ Senior Management Service; data collection.—

(2) The data required by this section shall include:

(a) A detailed description of the specific actions that have been taken by the department to implement the provisions of s. *109.403* ~~110.403~~.

(3) To assist in the preparation of the data required by this section, the secretary may hire a consultant with expertise in the field of personnel management and may use the services of the advisory committee authorized in s. *109.405* ~~110.405~~.

Section 62. *Section 110.501, Florida Statutes, is renumbered as section 109.501, Florida Statutes.*

Section 63. Section 110.502, Florida Statutes, is renumbered as section 109.502, Florida Statutes, and subsections (2) and (3) of said section are amended to read:

109.502 ~~110.502~~ Scope of act; status of volunteers.—

(2) Volunteers recruited, trained, or accepted by any state department or agency shall not be subject to any provisions of law relating to state employment, to any collective bargaining agreement between the state and any employees' association or union, or to any laws relating to hours of work, rates of compensation, leave time, and employee benefits, except those consistent with s. *109.504* ~~110.504~~. However, all volunteers shall comply with applicable department or agency rules.

(3) Every department or agency utilizing the services of volunteers is hereby authorized to provide such incidental reimbursement or benefit consistent with the provisions of s. *109.504* ~~110.504~~, including transportation costs, lodging, and subsistence, recognition, and other accommodations as the department or agency deems necessary to assist, recognize, reward, or encourage volunteers in performing their functions. No department or agency shall expend or authorize an expenditure therefor in excess of the amount provided for to the department or agency by appropriation in any fiscal year.

Section 64. *Sections 110.503 and 110.504, Florida Statutes, are renumbered as sections 109.503 and 109.504, Florida Statutes, respectively.*

Section 65. Section 110.601, Florida Statutes, is renumbered as section 109.601, Florida Statutes, and amended to read:

109.601 ~~110.601~~ Declaration of policy.~~—It is the purpose of~~ This part *creates* ~~to create~~ a system of personnel management *the purpose of which is to deliver* ~~which ensures to the state the delivery of~~ high-quality performance *by those employees* in select exempt classifications by facilitating the state's ability to attract and retain qualified personnel in these positions, while also providing sufficient management flexibility to ensure that the workforce is responsive to agency needs. The Legislature recognizes that the public interest is best served by developing and refining the technical and managerial skills of its Selected Exempt Service employees, and, to this end, technical training and management development programs are regarded as a major administrative function within agencies.

Section 66. Section 110.602, Florida Statutes, is renumbered as section 109.602, Florida Statutes, and amended to read:

109.602 ~~110.602~~ Selected Exempt Service; creation, coverage.—The Selected Exempt Service is created as a separate system of personnel administration for select exempt positions. Such positions shall include, and shall be limited to, those positions which are exempt from the Career Service System pursuant to s. *109.205(2) and (5)* ~~110.205(2) and (5)~~ and for which the salaries and benefits are set by the department in accordance with the rules of the Selected Exempt Service. The department shall designate all positions included in the Selected Exempt Service as either managerial/policymaking, professional, or nonmanagerial/nonpolicymaking. In no event shall the number of positions included in the Selected Exempt Service, excluding those positions designated as professional or nonmanagerial/nonpolicymaking, exceed 1.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Selected Exempt Service which would exceed the limitation established in this section. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs.

Section 67. Effective July 1, 2001, section 109.602, Florida Statutes, as renumbered and amended by this act, is amended to read:

109.602 Selected Exempt Service; creation, coverage.—The Selected Exempt Service is created as a separate system of personnel administration for select exempt positions. Such positions shall include, and shall be limited to, those positions which are exempt from the Career Service System pursuant to s. 109.205(2) and (5) and for which the salaries and benefits are set by the department in accordance with the rules of the Selected Exempt Service. The department shall designate all positions included in the Selected Exempt Service as either managerial/policymaking, professional, or nonmanagerial/nonpolicymaking. ~~In no event shall the number of positions included in the Selected Exempt Service, excluding those positions designated as professional or nonmanagerial/nonpolicymaking, exceed 1.5 percent of the total full-time equivalent positions in the career service. The department shall deny approval to establish any position within the Selected Exempt Service which would exceed the limitation established in this section. The department shall report that the limitation has been reached to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as soon as practicable after such event occurs.~~

Section 68. *Sections 110.603 and 110.604, Florida Statutes, are renumbered as sections 109.603 and 109.604, Florida Statutes, respectively.*

Section 69. Section 110.605, Florida Statutes, is renumbered as section 109.605, Florida Statutes, and subsection (1) of said section is amended to read:

109.605 ~~110.605~~ Powers and duties; personnel rules, records, reports, and performance appraisal.—

(1) The department shall adopt and administer uniform personnel rules, records, and reports relating to employees and positions in the Selected Exempt Service, as well as any other rules and procedures relating to personnel administration which are necessary to carry out the purposes of this part.

(a) The department shall develop uniform forms and instructions to be used in reporting transactions which involve changes in an employee's salary, status, performance, leave, fingerprint record, loyalty oath, payroll change, or appointment action or any additional transactions as the department may deem appropriate.

~~(b) It is the responsibility of the employing agency to maintain these records and all other records and reports prescribed in applicable rules on a current basis.~~

(b)~~(c)~~ The department shall develop a uniform performance appraisal system for employees and positions in the Selected Exempt Service covered by a collective bargaining agreement. Each employing agency shall develop a performance appraisal system for all other employees and positions in the Selected Exempt System. Such agency system shall take into consideration individual and organizational efficiency, productivity, and effectiveness.

(c)~~(d)~~ *The employing agency must maintain, on a current basis, all records and reports required by applicable rules.* The department shall periodically audit employing agency records to determine compliance with the provisions of this part and the rules of the department.

(d)~~(e)~~ The department shall develop a program of affirmative and positive actions that will ensure full utilization of *the rich diversity of Florida's human resources* ~~women and minorities~~ in Selected Exempt Service positions.

Section 70. Section 110.606, Florida Statutes, is renumbered as section 109.606, Florida Statutes, and paragraph (c) of subsection (2) of said section is amended to read:

109.606 ~~110.606~~ Selected Exempt Service; data collection.—

(2) The data required by this section shall include:

(c) In addition, as needed~~, the data shall include~~:

1. A pricing analysis based on a market survey of positions comparable to those included in the Selected Exempt Service and recommendations with respect to whether, and to what extent, revisions to the salary ranges for the Selected Exempt Service classifications should be implemented.

2. An analysis of actual salary levels for each classification within the Selected Exempt Service, indicating the mean salary for each classification within the Selected Exempt Service and the deviation from such means with respect to each agency's salary practice in each classification; reviewing the duties and responsibilities in relation to the incumbents' salary levels, credentials, skills, knowledge, and abilities; and discussing whether the salary practices reflected thereby indicate interagency salary inequities among positions within the Selected Exempt Service.

Section 71. *(1) Sections 109.105 through 109.191, Florida Statutes, are designated as part I of chapter 109, Florida Statutes, to be entitled "General State Employment Provisions."*

(2) Sections 109.201 through 109.240, Florida Statutes, are designated as part II of chapter 109, Florida Statutes, to be entitled "Career Service System."

(3) Sections 109.401 through 109.406, Florida Statutes, are designated as part III of chapter 109, Florida Statutes, to be entitled "Senior Management Service System."

(4) Sections 109.501 through 109.504, Florida Statutes, are designated as part IV of chapter 109, Florida Statutes, to be entitled "Volunteers."

(5) Sections 109.601 through 109.606, Florida Statutes, are designated as part V of chapter 109, Florida Statutes, to be entitled "Selected Exempt Service System."

Section 72. Paragraph (c) of subsection (2) and paragraph (d) of subsection (3) of section 20.171, Florida Statutes, are amended to read:

20.171 Department of Labor and Employment Security.—There is created a Department of Labor and Employment Security. The department shall operate its programs in a decentralized fashion.

(2)

(c) The managers of all divisions and offices specifically named in this section and the directors of the five field offices are exempt from part II of chapter *109* ~~110~~ and are included in the Senior Management Service in accordance with s. *109.205(2)(i)* ~~110.205(2)(i)~~. No other assistant secretaries or senior management positions at or above the division level, except those established in chapter *109* ~~110~~, may be created without specific legislative authority.

(3)

(d)1. The secretary shall appoint a comptroller who shall be responsible to the assistant secretary. This position is exempt from part II of chapter *109* ~~110~~.

2. The comptroller is the chief financial officer of the department and shall be a proven, effective administrator who, by a combination of education and experience, clearly possesses a broad knowledge of the administrative, financial, and technical aspects of a complex cost-accounting system. The comptroller must also have a working knowledge of generally accepted accounting principles. At a minimum, the comptroller shall hold an active license to practice public accounting in this state pursuant to chapter 473 or in any other state. In addition to the requirements of the Florida Fiscal Accounting Management Information System Act, the comptroller is responsible for the development, maintenance, and modification of an accounting system which will in a timely manner accurately reflect the revenues and expenditures of the department and which shall include a cost-accounting system to properly identify, segregate, allocate, and report department costs. The comptroller shall supervise and direct preparation of a detailed 36-month forecast of cash and expenditures and shall be responsible for managing cash and determining cash requirements. The comptroller shall review all comparative cost studies which examine the cost-effectiveness and feasibility of contracting for services and operations performed by the department. The review shall state that the study was prepared in accordance with generally accepted cost-accounting standards applied in a consistent manner using valid and accurate cost data.

3. The comptroller may be required to give bond as provided by s. 20.05(4).

4. The department shall, by rule or internal management memoranda as required by chapter 120, provide for the maintenance by the comptroller of financial records and accounts of the department as will afford a full and complete check against the improper payment of bills and provide a system for the prompt payment of the just obligations of the department, which records must at all times disclose:

a. The several appropriations available for the use of the department.

b. The specific amounts of each such appropriation budgeted by the department for each improvement or purpose.

c. The apportionment or division of all such appropriations among the several counties and field offices, when such apportionment or division is made.

d. The amount or portion of each such apportionment against general contractual and other obligations of the department.

e. The amount expended and still to be expended in connection with each contractual and each other obligation of the department.

f. The expense and operating costs of the various activities of the department.

g. The receipts accruing to the department and the distribution thereof.

h. The assets, investments, and liabilities of the department.

i. The cash requirements of the department for a 36-month period.

5. The comptroller shall maintain a separate account for each fund administered by the department.

6. The comptroller shall perform such other related duties as may be designated by the department.

Section 73. Subsection (3) of section 20.18, Florida Statutes, is amended to read:

20.18 Department of Community Affairs.—There is created a Department of Community Affairs.

(3) Unless otherwise provided by law, the Secretary of Community Affairs shall appoint the directors or executive directors of any commission or council assigned to the department, who shall serve at his or her pleasure as provided for division directors in s. *109.205* ~~110.205~~. The appointment or termination by the secretary will be done with the advice and consent of the commission or council; and the director or executive director may employ, subject to departmental rules and procedures, such personnel as may be authorized and necessary.

Section 74. Subsection (6) of section 20.21, Florida Statutes, is amended to read:

20.21 Department of Revenue.—There is created a Department of Revenue.

(6) Notwithstanding the provisions of s. *109.123* ~~110.123~~, relating to the state group insurance program, the department may pay, or participate in the payment of, premiums for health, accident, and life insurance for its full-time out-of-state employees, pursuant to such rules as it may adopt, and such payments shall be in addition to the regular salaries of such full-time out-of-state employees.

Section 75. Paragraph (d) of subsection (1), paragraph (h) of subsection (2), paragraphs (d), (f), (h), and (i) of subsection (3), paragraphs (c) and (d) of subsection (4), and subsection (5) of section 20.23, Florida Statutes, are amended to read:

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

(1)

(d) Any secretary appointed after July 5, 1989, and the assistant secretaries shall be exempt from the provisions of part III of chapter *109* ~~110~~ and shall receive compensation commensurate with their qualifications and competitive with compensation for comparable responsibility in the private sector. When the salary of any assistant secretary exceeds the limits established in part III of chapter *109* ~~110~~, the Governor shall approve said salary.

(2)

(h) The commission shall appoint an executive director and assistant executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to perform adequately the functions of the commission, within budgetary limitations. All employees of the commission are exempt from part II of chapter *109* ~~110~~ and shall serve at the pleasure of the commission. The salaries and benefits of all employees of the commission shall be set in accordance with the Selected Exempt Service; provided, however, that the commission shall have complete authority for fixing the salary of the executive director and assistant executive director.

(3)

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

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

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

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

d. Performing other activities of a statewide nature.

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

a. The Office of Administration;

b. The Office of Policy Planning;

c. The Office of Design;

d. The Office of Highway Operations;

e. The Office of Right-of-Way;

f. The Office of Toll Operations;

g. The Office of Information Systems; and

h. The Office of Motor Carrier Compliance.

3. Other offices may be established in accordance with s. 20.04(7). The heads of such offices are exempt from part II of chapter *109* ~~110~~. No office or organization shall be created at a level equal to or higher than a division without specific legislative authority.

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

(f)1. Within the central office there is created an Office of Management and Budget. The head of the Office of Management and Budget is responsible to the Assistant Secretary for Finance and Administration and is exempt from part II of chapter *109* ~~110~~.

2. The functions of the Office of Management and Budget include, but are not limited to:

a. Preparation of the work program;

b. Preparation of the departmental budget; and

c. Coordination of related policies and procedures.

3. The Office of Management and Budget shall also be responsible for developing uniform implementation and monitoring procedures for all activities performed at the district level involving the budget and the work program.

(h)1. The secretary shall appoint an inspector general pursuant to s. 20.055. To comply with recommended professional auditing standards related to independence and objectivity, the inspector general shall be appointed to a position within the Career Service System and may be removed by the secretary with the concurrence of the Transportation Commission. In order to attract and retain an individual who has the

proven technical and administrative skills necessary to comply with the requirements of this section, the agency head may appoint the inspector general to a classification level within the Career Service System that is equivalent to that provided for in part III of chapter *109* ~~110~~. The inspector general may be organizationally located within another unit of the department for administrative purposes, but shall function independently and be directly responsible to the secretary pursuant to s. 20.055. The duties of the inspector general shall include, but are not restricted to, reviewing, evaluating, and reporting on the policies, plans, procedures, and accounting, financial, and other operations of the department and recommending changes for the improvement thereof, as well as performing audits of contracts and agreements between the department and private entities or other governmental entities. The inspector general shall give priority to reviewing major parts of the department's accounting system and central office monitoring function to determine whether such systems effectively ensure accountability and compliance with all laws, rules, policies, and procedures applicable to the operation of the department. The inspector general shall also give priority to assessing the department's management information systems as required by s. 282.318. The internal audit function shall use the necessary expertise, in particular, engineering, financial, and property appraising expertise, to independently evaluate the technical aspects of the department's operations. The inspector general shall have access at all times to any personnel, records, data, or other information of the department and shall determine the methods and procedures necessary to carry out his or her duties. The inspector general is responsible for audits of departmental operations and for audits of consultant contracts and agreements, and such audits shall be conducted in accordance with generally accepted governmental auditing standards. The inspector general shall annually perform a sufficient number of audits to determine the efficiency and effectiveness, as well as verify the accuracy of estimates and charges, of contracts executed by the department with private entities and other governmental entities. The inspector general has the sole responsibility for the contents of his or her reports, and a copy of each report containing his or her findings and recommendations shall be furnished directly to the secretary and the commission.

2. In addition to the authority and responsibilities herein provided, the inspector general is required to report to the:

a. Secretary whenever the inspector general makes a preliminary determination that particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of the department have occurred. The secretary shall review and assess the correctness of the preliminary determination by the inspector general. If the preliminary determination is substantiated, the secretary shall submit such report to the appropriate committees of the Legislature within 7 calendar days, together with a report by the secretary containing any comments deemed appropriate. Nothing in this section shall be construed to authorize the public disclosure of information which is specifically prohibited from disclosure by any other provision of law.

b. Transportation Commission and the Legislature any actions by the secretary that prohibit the inspector general from initiating, carrying out, or completing any audit after the inspector general has decided to initiate, carry out, or complete such audit. The secretary shall, within 30 days after transmission of the report, set forth in a statement to the Transportation Commission and the Legislature the reasons for his or her actions.

(i)1. The secretary shall appoint a comptroller who is responsible to the Assistant Secretary for Finance and Administration. This position is exempt from part II of chapter *109* ~~110~~.

2. The comptroller is the chief financial officer of the department and must be a proven, effective administrator who by a combination of education and experience clearly possesses a broad knowledge of the administrative, financial, and technical aspects of a complex cost-accounting system. The comptroller must also have a working knowledge of generally accepted accounting principles. At a minimum, the comptroller must hold an active license to practice public accounting in Florida pursuant to chapter 473 or an active license to practice public accounting in any other state. In addition to the requirements of the Florida Fiscal Accounting Management Information System Act, the comptroller is responsible for the development, maintenance, and modification of an accounting system that will in a timely manner accurately reflect the revenues and expenditures of the department and that includes a cost-accounting system to properly identify, segregate, allocate, and report department costs. The comptroller shall supervise and direct preparation of a detailed 36-month forecast of cash and expenditures and is responsible for managing cash and determining cash requirements. The comptroller shall review all comparative cost studies that examine the cost-effectiveness and feasibility of contracting for services and operations performed by the department. The review must state that the study was prepared in accordance with generally accepted cost-accounting standards applied in a consistent manner using valid and accurate cost data.

3. The department shall by rule or internal management memoranda as required by chapter 120 provide for the maintenance by the comptroller of financial records and accounts of the department as will afford a full and complete check against the improper payment of bills and provide a system for the prompt payment of the just obligations of the department, which records must at all times disclose:

a. The several appropriations available for the use of the department;

b. The specific amounts of each such appropriation budgeted by the department for each improvement or purpose;

c. The apportionment or division of all such appropriations among the several counties and districts, when such apportionment or division is made;

d. The amount or portion of each such apportionment against general contractual and other liabilities then created;

e. The amount expended and still to be expended in connection with each contractual and other obligation of the department;

f. The expense and operating costs of the various activities of the department;

g. The receipts accruing to the department and the distribution thereof;

h. The assets, investments, and liabilities of the department; and

i. The cash requirements of the department for a 36-month period.

4. The comptroller shall maintain a separate account for each fund administered by the department.

5. The comptroller shall perform such other related duties as designated by the department.

(4)

(c) Each district secretary may appoint a district director for planning and programming, a district director for production, and a district director for operations. These positions are exempt from part II of chapter *109* ~~110~~.

(d) Within each district, offices shall be established for managing major functional responsibilities of the department. The offices may include planning, design, construction, right-of-way, maintenance, and public transportation. The heads of these offices shall be exempt from part II of chapter *109* ~~110~~.

(5) Notwithstanding the provisions of s. *109.205* ~~110.205~~, the Department of Management Services is authorized to exempt positions within the Department of Transportation which are comparable to positions within the Senior Management Service pursuant to s. *109.205(2)(i)* ~~110.205(2)(i)~~ or positions which are comparable to positions in the Selected Exempt Service under s. *109.205(2)(l)* ~~110.205(2)(l)~~.

Section 76. Subsection (2) of section 20.255, Florida Statutes, is amended to read:

20.255 Department of Environmental Protection.—There is created a Department of Environmental Protection.

(2)(a) There shall be three deputy secretaries who are to be appointed by and shall serve at the pleasure of the secretary. The secretary may assign any deputy secretary the responsibility to supervise, coordinate, and formulate policy for any division, office, or district. The following special offices are established and headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary:

1. Office of Chief of Staff,

2. Office of General Counsel,

3. Office of Inspector General,

4. Office of External Affairs,

5. Office of Legislative and Government Affairs, and

6. Office of Greenways and Trails.

(b) There shall be six administrative districts involved in regulatory matters of waste management, water resource management, wetlands, and air resources, which shall be headed by managers, each of whom is to be appointed by and serve at the pleasure of the secretary. Divisions of the department may have one assistant or two deputy division directors, as required to facilitate effective operation.

The managers of all divisions and offices specifically named in this section and the directors of the six administrative districts are exempt from part II of chapter *109* ~~110~~ and are included in the Senior Management Service in accordance with s. *109.205(2)(i)* ~~110.205(2)(i)~~.

Section 77. Paragraph (b) of subsection (3) and paragraph (e) of subsection (6) of section 20.315, Florida Statutes, are amended to read:

20.315 Department of Corrections.—There is created a Department of Corrections.

(3) SECRETARY OF CORRECTIONS.—The head of the Department of Corrections is the Secretary of Corrections. The secretary is appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor. The secretary is responsible for planning, coordinating, and managing the corrections system of the state. The secretary shall ensure that the programs and services of the department are administered in accordance with state and federal laws, rules, and regulations, with established program standards, and consistent with legislative intent. The secretary shall identify the need for and recommend funding for the secure and efficient operation of the state correctional system.

(b) The secretary shall appoint a general counsel and an inspector general, who are exempt from part II of chapter *109* ~~110~~ and are included in the Senior Management Service.

(6) FLORIDA CORRECTIONS COMMISSION.—

(e) The commission shall appoint an executive director and an assistant executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to perform adequately the functions of the commission, within budgetary limitations. All employees of the commission are exempt from part II of chapter *109* ~~110~~ and serve at the pleasure of the commission. The salaries and benefits of all employees of the commission shall be set in accordance with the Selected Exempt Service rules; however, the commission shall have complete authority for fixing the salaries of the executive director and the assistant executive director. The executive director and staff of the Task Force for Review of the Criminal Justice and Corrections System, created under chapter 93-404, Laws of Florida, shall serve as the staff for the commission until the commission hires an executive director.

Section 78. Paragraph (d) of subsection (20) of section 24.105, Florida Statutes, is amended to read:

24.105 Powers and duties of department.—The department shall:

(20) Employ division directors and other staff as may be necessary to carry out the provisions of this act; however:

(d) The department shall establish and maintain a personnel program for its employees, including a personnel classification and pay plan which may provide any or all of the benefits provided in the Senior Management Service or Selected Exempt Service. Each officer or employee of the department shall be a member of the Florida Retirement System. The retirement class of each officer or employee shall be the same as other persons performing comparable functions for other agencies. Employees of the department shall serve at the pleasure of the secretary and shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the secretary. Such personnel actions are exempt from the provisions of chapter 120. All employees of the department are exempt from the Career Service System provided in chapter *109* ~~110~~ and, notwithstanding the provisions of s. *109.205(5)* ~~110.205(5)~~, are not included in either the Senior Management Service or the Selected Exempt Service. However, all employees of the department are subject to all standards of conduct adopted by rule for career service and senior management employees pursuant to chapter *109* ~~110~~. In the event of a conflict between standards of conduct applicable to employees of the Department of the Lottery the more restrictive standard shall apply. Interpretations as to the more restrictive standard may be provided by the Commission on Ethics upon request of an advisory opinion pursuant to s. 112.322(3)(a), for purposes of this subsection the opinion shall be considered final action.

Section 79. Paragraph (d) of subsection (4) of section 24.122, Florida Statutes, is amended to read:

24.122 Exemption from taxation; state preemption; inapplicability of other laws.—

(4) Any state or local law providing any penalty, disability, restriction, or prohibition for the possession, manufacture, transportation, distribution, advertising, or sale of any lottery ticket, including chapter 849, shall not apply to the tickets of the state lottery operated pursuant to this act; nor shall any such law apply to the possession of a ticket issued by any other government-operated lottery. In addition, activities of the department under this act are exempt from the provisions of:

(d) Section *109.131* ~~110.131~~, relating to other personal services.

Section 80. Subsection (1) of section 68.087, Florida Statutes, is amended to read:

68.087 Exemptions to civil actions.—

(1) No court shall have jurisdiction over an action brought under this act against a member of the Legislature, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the state government when the action was brought. For purposes of this subsection, the term "senior executive branch official" means any person employed in the executive branch of government holding a position in the Senior Management Service as defined in s. *109.402* ~~110.402~~.

Section 81. Subsection (3) of section 104.31, Florida Statutes, is amended to read:

104.31 Political activities of state, county, and municipal officers and employees.—

(3) Nothing contained in this section or in any county or municipal charter shall be deemed to prohibit any public employee from expressing his or her opinions on any candidate or issue or from participating in any political campaign during the employee's off-duty hours, so long as such activities are not in conflict with the provisions of subsection (1) or s. *109.233* ~~110.233~~.

Section 82. Subsection (3) of section 106.082, Florida Statutes, is amended to read:

106.082 Commissioner of Agriculture candidates; campaign contribution limits.—

(3) No employee of the Department of Agriculture may solicit a campaign contribution for any candidate for the office of Commissioner of Agriculture from any person or business who is licensed, inspected, or otherwise authorized to do business as a food outlet or convenience store pursuant to chapter 500; or any director, officer, lobbyist, or controlling interest of that person; or any political committee or committee of continuous existence that represents that person. For purposes of this section, "employee of the department" means any person employed in the Department of Agriculture holding a position in the Senior Management Service as defined in s. *109.402* ~~110.402~~; any person holding a position in the Selected Exempt Service as defined in s. *109.602* ~~110.602~~; any person having authority over food outlet or convenience store regulation, or inspection supervision; or any person, hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Section 83. Subsection (4) of section 106.24, Florida Statutes, is amended to read:

106.24 Florida Elections Commission; membership; powers; duties.—

(4) The commission shall appoint an executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to adequately perform the functions of the commission, within budgetary limitations. All employees, except the executive director and attorneys, are subject to part II of chapter *109* ~~110~~. The executive director shall serve at the pleasure of the commission and be subject to part III of chapter *109* ~~110~~, except that the commission shall have complete authority for setting the executive director's salary. Attorneys employed by the commission shall be subject to part V of chapter *109* ~~110~~.

Section 84. Subsection (4) of section 112.044, Florida Statutes, is amended to read:

112.044 Public employers, employment agencies, labor organizations; discrimination based on age prohibited; exceptions; remedy.—

(4) APPEAL; CIVIL SUIT AUTHORIZED.—Any employee of the state who is within the Career Service System established by chapter *109* ~~110~~ and who is aggrieved by a violation of this act may appeal to the Public Employees Relations Commission under the conditions and following the procedures prescribed in part II of chapter 447. Any person other than an employee who is within the Career Service System established by chapter *109* ~~110~~, or any person employed by the Public Employees Relations Commission, who is aggrieved by a violation of this act may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this act.

Section 85. Section 112.0805, Florida Statutes, is amended to read:

112.0805 Employer notice of insurance eligibility to employees who retire.—Any employer who provides insurance coverage under s. *109.123* ~~110.123~~ or s. 112.0801 shall notify those employees who retire of their eligibility to participate in either the same group insurance plan or self-insurance plan as provided in ss. *109.123* ~~110.123~~ and 112.0801, or the insurance coverage as provided by this law.

Section 86. Paragraph (a) of subsection (9) of section 112.313, Florida Statutes, is amended to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—

(9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

(a)1. It is the intent of the Legislature to implement by statute the provisions of s. 8(e), Art. II of the State Constitution relating to legislators, statewide elected officers, appointed state officers, and designated public employees.

2. As used in this paragraph:

a. "Employee" means:

(I) Any person employed in the executive or legislative branch of government holding a position in the Senior Management Service as defined in s. *109.402* ~~110.402~~ or any person holding a position in the Selected Exempt Service as defined in s. *109.602* ~~110.602~~ or any person having authority over policy or procurement employed by the Department of the Lottery.

(II) The Auditor General, the Sergeant at Arms and Secretary of the Senate, and the Sergeant at Arms and Clerk of the House of Representatives.

(III) The executive director of the Legislative Committee on Intergovernmental Relations and the executive director and deputy executive director of the Commission on Ethics.

(IV) An executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, analyst, or attorney of the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, Senate Minority Party Office, House Majority Party Office, or House Minority Party Office; or any person, hired on a contractual basis, having the power normally conferred upon such persons, by whatever title.

(V) The Chancellor and Vice Chancellors of the State University System; the general counsel to the Board of Regents; and the president, vice presidents, and deans of each state university.

(VI) Any person having the power normally conferred upon the positions referenced in this sub-subparagraph.

b. "Appointed state officer" means any member of an appointive board, commission, committee, council, or authority of the executive or legislative branch of state government whose powers, jurisdiction, and authority are not solely advisory and include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relative to its internal operations.

c. "State agency" means an entity of the legislative, executive, or judicial branch of state government over which the Legislature exercises plenary budgetary and statutory control.

3. No member of the Legislature, appointed state officer, or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of 2 years following vacation of office. No member of the Legislature shall personally represent another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals or in settlement negotiations after the filing of a lawsuit.

4. No agency employee shall personally represent another person or entity for compensation before the agency with which he or she was employed for a period of 2 years following vacation of position, unless employed by another agency of state government.

5. Any person violating this paragraph shall be subject to the penalties provided in s. 112.317 and a civil penalty of an amount equal to the compensation which the person receives for the prohibited conduct.

6. This paragraph is not applicable to:

a. A person employed by the Legislature or other agency prior to July 1, 1989;

b. A person who was employed by the Legislature or other agency on July 1, 1989, whether or not the person was a defined employee on July 1, 1989;

c. A person who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994;

d. A person who has reached normal retirement age as defined in s. 121.021(29), and who has retired under the provisions of chapter 121 by July 1, 1991; or

e. Any appointed state officer whose term of office began before January 1, 1995, unless reappointed to that office on or after January 1, 1995.

Section 87. Paragraph (a) of subsection (5) of section 112.3189, Florida Statutes, is amended to read:

112.3189 Investigative procedures upon receipt of whistle-blower information from certain state employees.—

(5)(a) If the Chief Inspector General or agency inspector general under subsection (3) determines that the information disclosed is the type of information described in s. 112.3187(5), that the source of the information is from a person who is an employee or former employee of, or an applicant for employment with, a state agency, as defined in s. 216.011, and that the information disclosed demonstrates reasonable cause to suspect that an employee or agent of an agency or independent contractor has violated any federal, state, or local law, rule, or regulation, thereby creating a substantial and specific danger to the public's health, safety, or welfare, or has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty, the Chief Inspector General or agency inspector general making such determination shall then conduct an investigation, unless the Chief Inspector General or the agency inspector general determines, within 30 days after receiving the allegations from the complainant, that such investigation is unnecessary. For purposes of this subsection, the Chief Inspector General or the agency inspector general shall consider the following factors, but is not limited to only the following factors, when deciding whether the investigation is not necessary:

1. The gravity of the disclosed information compared to the time and expense of an investigation.

2. The potential for an investigation to yield recommendations that will make state government more efficient and effective.

3. The benefit to state government to have a final report on the disclosed information.

4. Whether the alleged whistle-blower information primarily concerns personnel practices that may be investigated under chapter *109* ~~110~~.

5. Whether another agency may be conducting an investigation and whether any investigation under this section could be duplicative.

6. The time that has elapsed between the alleged event and the disclosure of the information.

Section 88. Subsection (2) of section 112.363, Florida Statutes, is amended to read:

112.363 Retiree health insurance subsidy.—

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—A person who is retired under a state-administered retirement system, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under a state-administered retirement system, is eligible for health insurance subsidy payments provided under this section; except that pension recipients under ss. 121.40, 238.07(16)(a), and 250.22, recipients of health insurance coverage under s. *109.1232* ~~110.1232~~, or any other special pension or relief act shall not be eligible for such payments. Payment of the retiree health insurance subsidy shall be made only after coverage for health insurance for the retiree or beneficiary has been certified in writing to the Department of Management Services. Participation in a former employer's group health insurance program is not a requirement for eligibility under this section. However, participants in the Senior Management Service Optional Annuity Program as provided in s. 121.055(6) and the State University System Optional Retirement Program as provided in s. 121.35 shall not receive the retiree health insurance subsidy provided in this section. The employer of such participant shall pay the contributions required in subsection (8) to the annuity program provided in s. 121.055(6)(d) or s. 121.35(4)(a), as applicable.

Section 89. Effective July 1, 2001, paragraph (a) of subsection (2) of section 112.363, Florida Statutes, as amended by chapter 2000-169, Laws of Florida, is amended to read:

112.363 Retiree health insurance subsidy.—

(2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—

(a) A person who is retired under a state-administered retirement system, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under a state-administered retirement system, is eligible for health insurance subsidy payments provided under this section; except that pension recipients under ss. 121.40, 238.07(16)(a), and 250.22, recipients of health insurance coverage under s. *109.1232* ~~110.1232~~, or any other special pension or relief act shall not be eligible for such payments.

Section 90. Subsection (38) of section 121.021, Florida Statutes, is amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(38) "Continuous service" means creditable service as a member, beginning with the first day of employment with an employer covered under a state-administered retirement system consolidated herein and continuing for as long as the member remains in an employer-employee relationship with an employer covered under this chapter. An absence of 1 calendar month or more from an employer's payroll shall be considered a break in continuous service, except for periods of absence during which an employer-employee relationship continues to exist and such period of absence is creditable under this chapter or under one of the existing systems consolidated herein. However, a law enforcement officer as defined in s. 121.0515(2)(a) who was a member of a state-administered retirement system under chapter 122 or chapter 321 and who resigned and was subsequently reemployed in a law enforcement position within 12 calendar months of such resignation by an employer under such state-administered retirement system shall be deemed to have not experienced a break in service. Further, with respect to a state-employed law enforcement officer who meets the criteria specified in s. 121.0515(2)(a), if the absence from the employer's payroll is the result of a "layoff" as defined in s. *109.203(24)* ~~110.203(24)~~ or a resignation to run for an elected office that meets the criteria specified in s. 121.0515(2)(a), no break in continuous service shall be deemed to have occurred if the member is reemployed as a state law enforcement officer or is elected to an office which meets the criteria specified in s. 121.0515(2)(a) within 12 calendar months after the date of the layoff or resignation, notwithstanding the fact that such period of layoff or resignation is not creditable service under this chapter. A withdrawal of contributions will constitute a break in service. Continuous service also includes past service purchased under this chapter, provided such service is continuous within this definition and the rules established by the administrator. The administrator may establish administrative rules and procedures for applying this definition to creditable service authorized under this chapter. Any correctional officer, as defined in s. 943.10, whose participation in the state-administered retirement system is terminated due to the transfer of a county detention facility through a contractual agreement with a private entity pursuant to s. 951.062, shall be deemed an employee with continuous service in the Special Risk Class, provided return to employment with the former

employer takes place within 3 years due to contract termination or the officer is employed by a covered employer in a special risk position within 1 year after his or her initial termination of employment by such transfer of its detention facilities to the private entity.

Section 91. Paragraph (b) of subsection (3) of section 121.0515, Florida Statutes, is amended to read:

121.0515 Special risk membership.—

(3) PROCEDURE FOR DESIGNATING.—

(b)1. Applying the criteria set forth in this section, the Department of Management Services shall specify which current and newly created classes of positions under the uniform classification plan established pursuant to chapter *109* ~~110~~ entitle the incumbents of positions in those classes to membership in the Special Risk Class. Only employees employed in the classes so specified shall be special risk members.

2. When a class is not specified by the department as provided in subparagraph 1., the employing agency may petition the State Retirement Commission for approval in accordance with s. 121.23.

Section 92. Paragraph (a) of subsection (1) of section 121.055, Florida Statutes, is amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)(a) Participation in the Senior Management Service Class shall be limited to and compulsory for any member of the Florida Retirement System who holds a position in the Senior Management Service of the State of Florida, established by part III of chapter *109* ~~110~~, unless such member elects, within the time specified herein, to participate in the Senior Management Service Optional Annuity Program as established in subsection (6).

Section 93. Paragraph (a) of subsection (2) of section 121.35, Florida Statutes, is amended to read:

121.35 Optional retirement program for the State University System.—

(2) ELIGIBILITY FOR PARTICIPATION IN OPTIONAL PROGRAM.—

(a) Participation in the optional retirement program provided by this section shall be limited to persons who are otherwise eligible for membership in the Florida Retirement System; who are employed or appointed for no less than one academic year; and who are employed in one of the following State University System positions:

1. Positions classified as instructional and research faculty which are exempt from the career service under the provisions of s. *109.205(2)(d)* ~~110.205(2)(d)~~.

2. Positions classified as administrative and professional which are exempt from the career service under the provisions of s. *109.205(2)(d)* ~~110.205(2)(d)~~.

3. The Chancellor and the university presidents.

Section 94. Subsection (5) of section 215.94, Florida Statutes, is amended to read:

215.94 Designation, duties, and responsibilities of functional owners.—

(5) The Department of Management Services shall be the functional owner of the Cooperative Personnel Employment Subsystem. The department shall design, implement, and operate the subsystem in accordance with the provisions of ss. *109.116* ~~110.116~~ and 215.90-215.96. The subsystem shall include, but shall not be limited to, functions for:

(a) Maintenance of employee and position data, including funding sources and percentages and salary lapse. The employee data shall include, but not be limited to, information to meet the payroll system requirements of the Department of Banking and Finance and to meet the employee benefit system requirements of the Department of Management Services.

(b) Recruitment and examination.

(c) Time reporting.

(d) Collective bargaining.

Section 95. Subsection (2) of section 216.011, Florida Statutes, is amended to read:

216.011 Definitions.—

(2) For purposes of this chapter, terms related to personnel affairs of the state shall be defined as set forth in s. *109.203* ~~110.203~~.

Section 96. Paragraph (a) of subsection (2) of section 216.251, Florida Statutes, is amended to read:

216.251 Salary appropriations; limitations.—

(2)(a) The salary for each position not specifically indicated in the appropriations acts shall be as provided in one of the following subparagraphs:

1. Within the classification and pay plans provided for in chapter *109* ~~110~~.

2. Within the classification and pay plans established by the Board of Trustees for the Florida School for the Deaf and the Blind of the Department of Education and approved by the State Board of Education for academic and academic administrative personnel.

3. Within the classification and pay plan approved and administered by the Board of Regents for those positions in the State University System.

4. Within the classification and pay plan approved by the President of the Senate and the Speaker of the House of Representatives, as the case may be, for employees of the Legislature.

5. Within the approved classification and pay plan for the judicial branch.

6. The salary of all positions not specifically included in this subsection shall be set by the commission or by the Chief Justice for the judicial branch.

Section 97. Section 231.381, Florida Statutes, is amended to read:

231.381 Transfer of sick leave and annual leave.—In implementing the provisions of ss. 230.23(4)(n) and 402.22(1)(d), educational personnel in Department of Children and Family Services residential care facilities who are employed by a district school board may request, and the district school board shall accept, a lump-sum transfer of accumulated sick leave for such personnel to the maximum allowed by policies of the district school board, notwithstanding the provisions of s. *109.122* ~~110.122~~. Educational personnel in Department of Children and Family Services residential care facilities who are employed by a district school board under the provisions of s. 402.22(1)(d) may request, and the district school board shall accept, a lump-sum transfer of accumulated annual leave for each person employed by the district school board in a position in the district eligible to accrue vacation leave under policies of the district school board.

Section 98. Paragraph (c) of subsection (1) of section 235.217, Florida Statutes, is amended to read:

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

(1)

(c) The clearinghouse is assigned to the Department of Management Services for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control and direction of

the department, except as otherwise provided in chapters *109* ~~110~~, 255, and 287 for agencies of the executive branch.

Section 99. Paragraph (f) of subsection (3) of section 240.209, Florida Statutes, is amended to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(f) Establish and maintain systemwide personnel programs for all State University System employees, including a systemwide personnel classification and pay plan, notwithstanding provisions of law that grant authority to the Department of Management Services over such programs for state employees. The board shall consult with the legislative appropriations committees regarding any major policy changes related to classification and pay which are in conflict with those policies in effect for career service employees with similar job classifications and responsibilities. The board may adopt rules relating to the appointment, employment, and removal of personnel which delegate its authority to the Chancellor or the universities. The board shall submit, in a manner prescribed by law, any reports concerning State University System personnel programs as shall be required of the Department of Management Services for other state employees. The Department of Management Services shall retain authority over State University System employees for programs established in ss. *109.116, 109.123, 109.1232, 109.1234, and 109.1238* ~~110.116, 110.123, 110.1232, 110.1234, and 110.1238~~ and in chapters 121, 122, and 238. The board shall adopt rules to provide for a coordinated, efficient systemwide program and shall delegate to the universities authority for implementing the program consistent with these coordinating rules so adopted and applicable collective bargaining agreements. The salary rate controls for positions in budgets under the Board of Regents shall separately delineate the general faculty and all other categories.

Section 100. Paragraph (a) of subsection (1) of section 240.2111, Florida Statutes, is amended to read:

240.2111 Employee recognition program.—

(1)(a) Notwithstanding the provisions of s. *109.1245* ~~110.1245~~, the Board of Regents and each university shall promulgate rules for an employee recognition program which provides for the following components:

1. A superior accomplishment component to recognize employees who have contributed outstanding and meritorious service in their fields, including those who have made exceptional contributions to efficiency, economy, or other improvement in State University System operations. No cash award under the superior accomplishment component of the program shall exceed $1,000, excluding applicable taxes.

2. A satisfactory service component to recognize employees who have achieved increments of 5 continuous years of satisfactory service to the Board of Regents, university, or state in appreciation and recognition of such service. No cash award granted under the satisfactory service component shall exceed $50, excluding applicable taxes.

Section 101. Section 240.507, Florida Statutes, is amended to read:

240.507 Extension personnel; federal health insurance programs notwithstanding the provisions of s. *109.123* ~~110.123~~.—The Institute of Food and Agricultural Sciences at the University of Florida is authorized to pay the employer's share of premiums to the Federal Health Benefits Insurance Program from its appropriated budget for any cooperative extension employee of the institute having both state and federal appointments and participating in the Federal Civil Service Retirement System.

Section 102. Subsection (9) of section 241.002, Florida Statutes, is amended to read:

241.002 Duties of the Department of Education.—The duties of the Department of Education concerning distance learning include, but are not limited to, the duty to:

(9) Hire appropriate staff which may include a position that shall be exempt from part II of chapter *109* ~~110~~ and is included in the Senior Management Service in accordance with s. *109.205* ~~110.205~~.

Nothing in ss. 241.001-241.004 shall be construed to abrogate, supersede, alter, or amend the powers and duties of any state agency, district school board, community college board of trustees, the State Board of Community Colleges, or the Board of Regents.

Section 103. Paragraph (b) of subsection (6) of section 242.331, Florida Statutes, is amended to read:

242.331 Florida School for the Deaf and the Blind; board of trustees.—

(6) The board of trustees shall:

(b) Administer and maintain personnel programs for all employees of the board of trustees and the Florida School for the Deaf and the Blind who shall be state employees, including the personnel classification and pay plan established in accordance with ss. *109.205(2)(d)* ~~110.205(2)(d)~~ and 216.251(2)(a)2. for academic and academic administrative personnel, the provisions of chapter *109* ~~110~~, and the provisions of law that grant authority to the Department of Management Services over such programs for state employees.

Section 104. Subsection (2) of section 260.0125, Florida Statutes, is amended to read:

260.0125 Limitation on liability of private landowners whose property is designated as part of the statewide system of greenways and trails.—

(2) Any private landowner who consents to designation of his or her land as part of the statewide system of greenways and trails pursuant to s. 260.016(2)(d) without compensation shall be considered a volunteer, as defined in s. *109.501* ~~110.501~~, and shall be covered by state liability protection pursuant to s. 768.28, including s. 768.28(9).

Section 105. Paragraph (a) of subsection (4) of section 281.02, Florida Statutes, is amended to read:

281.02 Powers and duties of the Department of Management Services, Florida Capitol Police.—The Department of Management Services, Florida Capitol Police, has the following powers and duties:

(4) To employ:

(a) Agents who hold certification as police officers in accordance with the minimum standards and qualifications as set forth in s. 943.13 and the provisions of chapter *109* ~~110~~, who shall have the authority to bear arms, make arrests, and apply for arrest warrants; and

Section 106. Section 287.175, Florida Statutes, is amended to read:

287.175 Penalties.—A violation of this part or a rule adopted hereunder, pursuant to applicable constitutional and statutory procedures, constitutes misuse of public position as defined in s. 112.313(6), and is punishable as provided in s. 112.317. The Comptroller shall report incidents of suspected misuse to the Commission on Ethics, and the commission shall investigate possible violations of this part or rules adopted hereunder when reported by the Comptroller, notwithstanding the provisions of s. 112.324. Any violation of this part or a rule adopted hereunder shall be presumed to have been committed with wrongful intent, but such presumption is rebuttable. Nothing in this section is intended to deny rights provided to career service employees by s. *109.227* ~~110.227~~.

Section 107. Subsection (2) of section 288.708, Florida Statutes, is amended to read:

288.708 Executive director; employees.—

(2) The executive director and all employees of the board shall be exempt from the provisions of part II of chapter *109* ~~110~~, and the executive director shall be subject to the provisions of part *III* ~~IV~~ of chapter *109* ~~110~~.

Section 108. Paragraph (a) of subsection (4) of section 295.07, Florida Statutes, is amended to read:

295.07 Preference in appointment and retention.—

(4) The following positions are exempt from this section:

(a) Those positions that are exempt from the state Career Service System under s. *109.205(2)* ~~110.205(2)~~; however, all positions under the University Support Personnel System of the State University System as well as all Career Service System positions under the Florida Community College System and the School for the Deaf and the Blind are included.

Section 109. Subsection (3) and paragraph (b) of subsection (4) of section 296.04, Florida Statutes, are amended to read:

296.04 Administrator; duties and qualifications; responsibilities.—

(3) The administrator shall be a resident of the state at the time of entering into employment in the position. The position shall be assigned to the Selected Exempt Service under part V of chapter *109* ~~110~~. The director shall afford applicants veterans' preference in appointment in accordance with ss. 295.07 and 295.085. In addition, the administrator must have at least a 4-year degree from an accredited university or college and 3 years of administrative experience in a health care facility, or any equivalent combination of experience, training, and education totaling 7 years in work relating to administration of a health care facility.

(4)

(b) All employees who fill authorized and established positions appropriated for the home shall be state employees. The department shall classify such employees in the manner prescribed in chapter *109* ~~110~~.

Section 110. Subsection (1) and paragraph (b) of subsection (4) of section 296.34, Florida Statutes, are amended to read:

296.34 Administrator; qualifications, duties, and responsibilities.—

(1) The director shall appoint an administrator of the home who shall be the chief executive of the home. The position shall be assigned to the Selected Exempt Service under part V of chapter *109* ~~110~~. The director shall give preference in appointment as provided in ss. 295.07 and 295.085 to applicants for the position of administrator.

(4)

(b) All employees who fill authorized and established positions appropriated for the home shall be state employees. The department shall classify such employees in the manner prescribed in chapter *109* ~~110~~.

Section 111. Subsection (5) of section 311.07, Florida Statutes, is amended to read:

311.07 Florida seaport transportation and economic development funding.—

(5) Any port which receives funding under the program shall institute procedures to ensure that jobs created as a result of the state funding shall be subject to equal opportunity hiring practices in the manner provided in s. *109.112* ~~110.112~~.

Section 112. Paragraph (c) of subsection (10) of section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—It is the intent of the Legislature to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas of this state while minimizing transportation-related fuel consumption and air pollution. To accomplish these objectives, metropolitan planning organizations, referred to in this section as M.P.O.'s, shall develop, in cooperation with the state and public transit operators, transportation plans and programs for metropolitan areas. The plans and programs for each metropolitan area must provide for the development and integrated management and operation of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities that will function as an intermodal transportation system for the metropolitan area, based upon the prevailing principles provided in s. 334.046(1). The process for developing such plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive, to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(10) METROPOLITAN PLANNING ORGANIZATION ADVISORY COUNCIL.—

(c) The powers and duties of the Metropolitan Planning Organization Advisory Council are to:

1. Enter into contracts with individuals, private corporations, and public agencies.

2. Acquire, own, operate, maintain, sell, or lease personal property essential for the conduct of business.

3. Accept funds, grants, assistance, gifts, or bequests from private, local, state, or federal sources.

4. Establish bylaws and adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring powers or duties upon it.

5. Assist M.P.O.'s in carrying out the urbanized area transportation planning process by serving as the principal forum for collective policy discussion pursuant to law.

6. Serve as a clearinghouse for review and comment by M.P.O.'s on the Florida Transportation Plan and on other issues required to comply with federal or state law in carrying out the urbanized area transportation and systematic planning processes instituted pursuant to s. 339.155.

7. Employ an executive director and such other staff as necessary to perform adequately the functions of the council, within budgetary limitations. The executive director and staff are exempt from part II of chapter *109* ~~110~~ and serve at the direction and control of the council. The council is assigned to the Office of the Secretary of the Department of Transportation for fiscal and accountability purposes, but it shall otherwise function independently of the control and direction of the department.

8. Adopt an agency strategic plan that provides the priority directions the agency will take to carry out its mission within the context of the state comprehensive plan and any other statutory mandates and directions given to the agency.

Section 113. Subsection (4) of section 343.74, Florida Statutes, is amended to read:

343.74 Powers and duties.—

(4) The authority shall institute procedures to ensure that jobs created as a result of state funding pursuant to this section shall be subject to equal opportunity hiring practices as provided for in s. *109.112* ~~110.112~~.

Section 114. Paragraph (e) of subsection (3) of section 381.85, Florida Statutes, is amended to read:

381.85 Biomedical and social research.—

(3) REVIEW COUNCIL FOR BIOMEDICAL AND SOCIAL RESEARCH.—

(e) The council shall be staffed by an executive director and a secretary who shall be appointed by the council and who shall be exempt from the provisions of part II of chapter *109* ~~110~~ relating to the Career Service System.

Section 115. Section 393.0657, Florida Statutes, is amended to read:

393.0657 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and 409, and teachers who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. *109.1127(3)* ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any direct service provider screening or fingerprinting requirements.

Section 116. Subsection (3) of section 400.19, Florida Statutes, is amended to read:

400.19 Right of entry and inspection.—

(3) The agency shall every 15 months conduct at least one unannounced inspection to determine compliance by the licensee with statutes, and with rules promulgated under the provisions of those statutes, governing minimum standards of construction, quality and adequacy of care, and rights of residents. The agency shall verify through subsequent inspection that any deficiency identified during the annual inspection is corrected. However, the agency may verify the correction of a class III deficiency unrelated to resident rights or resident care without reinspecting the facility if adequate written documentation has been received from the facility, which provides assurance that the deficiency has been corrected. The giving or causing to be given of advance notice of such unannounced inspections by an employee of the agency to any unauthorized person shall constitute cause for suspension of not fewer than 5 working days according to the provisions of chapter *109* ~~110~~.

Section 117. Subsection (3) of section 400.953, Florida Statutes, is amended to read:

400.953 Background screening of home medical equipment provider personnel.—The agency shall require employment screening as provided in chapter 435, using the level 1 standards for screening set forth in that chapter, for home medical equipment provider personnel.

(3) Proof of compliance with the screening requirements of s. *109.1127* ~~110.1127~~, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s. 985.407 or this part must be accepted in lieu of the requirements of this section if the person has been continuously employed in the same type of occupation for which he or she is seeking employment without a breach in service that exceeds 180 days, the proof of compliance is not more than 2 years old, and the person has been screened by the Department of Law Enforcement. An employer or contractor shall directly provide proof of compliance to another employer or contractor, and a potential employer or contractor may not accept any proof of compliance directly from the person requiring screening. Proof of compliance with the screening requirements of this section shall be provided, upon request, to the person screened by the home medical equipment provider.

Section 118. Section 402.3057, Florida Statutes, is amended to read:

402.3057 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and 409, and teachers and noninstructional personnel who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. *109.1127(3)* ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

Section 119. Subsection (4) of section 402.55, Florida Statutes, is amended to read:

402.55 Management fellows program.—

(4) Notwithstanding the provisions of chapter *109* ~~110~~, the departments may grant special pay increases to management fellows upon successful completion of the program.

Section 120. Subsection (2) of section 402.731, Florida Statutes, is amended to read:

402.731 Department of Children and Family Services certification programs for employees and service providers; employment provisions for transition to community-based care.—

(2) The department shall develop and implement employment programs to attract and retain competent staff to support and facilitate the transition to privatized community-based care. Such employment programs shall include lump-sum bonuses, salary incentives, relocation allowances, or severance pay. The department shall also contract for the delivery or administration of outplacement services. The department shall establish time-limited exempt positions as provided in s. *109.205(2)(h)* ~~110.205(2)(h)~~, in accordance with the authority provided in s. 216.262(1)(c)1. Employees appointed to fill such exempt positions shall have the same salaries and benefits as career service employees.

Section 121. Section 409.1757, Florida Statutes, is amended to read:

409.1757 Persons not required to be refingerprinted or rescreened.—Any provision of law to the contrary notwithstanding, human resource personnel who have been fingerprinted or screened pursuant to chapters 393, 394, 397, 402, and this chapter, and teachers who have been fingerprinted pursuant to chapter 231, who have not been unemployed for more than 90 days thereafter, and who under the penalty of perjury attest to the completion of such fingerprinting or screening and to compliance with the provisions of this section and the standards for good moral character as contained in such provisions as ss. *109.1127(3)* ~~110.1127(3)~~, 393.0655(1), 394.457(6), 397.451, 402.305(2), and 409.175(4), shall not be required to be refingerprinted or rescreened in order to comply with any caretaker screening or fingerprinting requirements.

Section 122. Paragraph (o) of subsection (1) of section 440.102, Florida Statutes, is amended to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(1) DEFINITIONS.—Except where the context otherwise requires, as used in this act:

(o) "Safety-sensitive position" means, with respect to a public employer, a position in which a drug impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances; a position subject to s. *109.1127* ~~110.1127~~; or a position in which a momentary lapse in attention could result in injury or death to another person.

Section 123. Paragraph (a) of subsection (3) of section 440.4416, Florida Statutes, is amended to read:

440.4416 Workers' Compensation Oversight Board.—

(3) EXECUTIVE DIRECTOR; EXPENSES.—

(a) The board shall appoint an executive director to direct and supervise the administrative affairs and general management of the board who shall be subject to the provisions of part *V* ~~IV~~ of chapter *109* ~~110~~. The executive director may employ persons and obtain technical assistance as authorized by the board and shall attend all meetings of the board. Board employees shall be exempt from part II of chapter *109* ~~110~~.

Section 124. Subsection (4) of section 443.171, Florida Statutes, is amended to read:

443.171 Division and commission; powers and duties; rules; advisory council; records and reports; proceedings; state-federal cooperation.—

(4) PERSONNEL.—Subject to chapter *109* ~~110~~ and the other provisions of this chapter, the division is authorized to appoint, fix the compensation of, and prescribe the duties and powers of such employees, accountants, attorneys, experts, and other persons as may be necessary in the performance of its duties under this chapter. The division may delegate to any such person such power and authority as it deems reasonable and proper for the effective administration of this chapter and may in its discretion bond any person handling moneys or signing checks hereunder; the cost of such bonds shall be paid from the Employment Security Administration Trust Fund.

Section 125. Paragraph (a) of subsection (9) of section 447.207, Florida Statutes, is amended to read:

447.207 Commission; powers and duties.—

(9) Pursuant to s. 447.208, the commission or its designated agent shall hear appeals, and enter such orders as it deems appropriate, arising out of:

(a) Section *109.124* ~~110.124~~, relating to termination or transfer of State Career Service System employees aged 65 or older.

Section 126. Paragraph (a) of subsection (2) of section 456.048, Florida Statutes, is amended to read:

456.048 Financial responsibility requirements for certain health care practitioners.—

(2) The board or department may grant exemptions upon application by practitioners meeting any of the following criteria:

(a) Any person licensed under chapter 457, chapter 460, chapter 461, s. 464.012, chapter 466, or chapter 467 who practices exclusively as an officer, employee, or agent of the Federal Government or of the state or its agencies or its subdivisions. For the purposes of this subsection, an agent of the state, its agencies, or its subdivisions is a person who is eligible for coverage under any self-insurance or insurance program authorized by the provisions of s. 768.28(15) or who is a volunteer under s. *109.501(1)* ~~110.501(1)~~.

Section 127. Subsection (3) of section 471.038, Florida Statutes, is amended to read:

471.038 Florida Engineers Management Corporation.—

(3) The Florida Engineers Management Corporation is created to provide administrative, investigative, and prosecutorial services to the board in accordance with the provisions of chapter 455 and this chapter. The management corporation may hire staff as necessary to carry out its functions. Such staff are not public employees for the purposes of chapter *109* ~~110~~ or chapter 112, except that the board of directors and the staff are subject to the provisions of s. 112.061. The provisions of s. 768.28 apply to the management corporation, which is deemed to be a corporation primarily acting as an instrumentality of the state, but which is not an agency within the meaning of s. 20.03(11). The management corporation shall:

(a) Be a Florida corporation not for profit, incorporated under the provisions of chapter 617.

(b) Provide administrative, investigative, and prosecutorial services to the board in accordance with the provisions of chapter 455, this chapter, and the contract required by this section.

(c) Receive, hold, and administer property and make only prudent expenditures directly related to the responsibilities of the board, and in accordance with the contract required by this section.

(d) Be approved by the board and the department to operate for the benefit of the board and in the best interest of the state.

(e) Operate under a fiscal year that begins on July 1 of each year and ends on June 30 of the following year.

(f) Have a seven-member board of directors, five of whom are to be appointed by the board and must be registrants regulated by the board and two of whom are to be appointed by the secretary and must be laypersons not regulated by the board. All initial appointments shall expire on October 31, 2000. Current members may be appointed to one additional term that complies with the provisions of this paragraph. Two members shall be appointed for 2 years, three members shall be appointed for 3 years, and two members shall be appointed for 4 years. One layperson shall be appointed to a 3-year term and one layperson shall be appointed to a 4-year term. Thereafter, all appointments shall be for 4-year terms. No new member shall serve more than two consecutive terms. Failure to attend three consecutive meetings shall be deemed a resignation from the board, and the vacancy shall be filled by a new appointment.

(g) Select its officers in accordance with its bylaws. The members of the board of directors may be removed by the board, with the concurrence of the department, for the same reasons that a board member may be removed.

(h) Use a portion of the interest derived from the management corporation account to offset the costs associated with the use of credit cards for payment of fees by applicants or licensees.

(i) Operate under an annual written contract with the department which is approved by the board. The contract must provide for, but is not limited to:

1. Approval of the articles of incorporation and bylaws of the management corporation by the department and the board.

2. Submission by the management corporation of an annual budget that complies with board rules for approval by the board and the department.

3. Annual certification by the board and the department that the management corporation is complying with the terms of the contract in a manner consistent with the goals and purposes of the board and in the best interest of the state. This certification must be reported in the board's minutes. The contract must also provide for methods and mechanisms to resolve any situation in which the certification process determines noncompliance.

4. Employment by the department of a contract administrator to actively supervise the administrative, investigative, and prosecutorial activities of the management corporation to ensure compliance with the contract and the provisions of chapter 455 and this chapter and to act as a liaison for the department, the board, and the management corporation to ensure the effective operation of the management corporation.

5. Funding of the management corporation through appropriations allocated to the regulation of professional engineers from the Professional Regulation Trust Fund.

6. The reversion to the board, or the state if the board ceases to exist, of moneys, records, data, and property held in trust by the management corporation for the benefit of the board, if the management corporation is no longer approved to operate for the board or the board ceases to exist. All records and data in a computerized database shall be returned to the department in a form that is compatible with the computerized database of the department.

7. The securing and maintaining by the management corporation, during the term of the contract and for all acts performed during the term of the contract, of all liability insurance coverages in an amount to be approved by the department to defend, indemnify, and hold harmless the management corporation and its officers and employees, the department and its employees, and the state against all claims arising from state and federal laws. Such insurance coverage must be with insurers qualified and doing business in the state. The management corporation must provide proof of insurance to the department. The

department and its employees and the state are exempt from and are not liable for any sum of money which represents a deductible, which sums shall be the sole responsibility of the management corporation. Violation of this subparagraph shall be grounds for terminating the contract.

8. Payment by the management corporation, out of its allocated budget, to the department of all costs of representation by the board counsel, including salary and benefits, travel, and any other compensation traditionally paid by the department to other board counsels.

9. Payment by the management corporation, out of its allocated budget, to the department of all costs incurred by the management corporation or the board for the Division of Administrative Hearings of the Department of Management Services and any other cost for utilization of these state services.

10. Payment by the management corporation, out of its allocated budget, to the department of all costs associated with the contract administrator of the department, including salary and benefits, travel, and other related costs traditionally paid to state employees.

(j) Provide for an annual financial and compliance audit of its financial accounts and records by an independent certified public accountant in accordance with generally accepted auditing standards. The annual audit report shall include a detailed supplemental schedule of expenditures for each expenditure category and a management letter. The annual audit report must be submitted to the board, the department, and the Auditor General for review. The Auditor General may, pursuant to his or her own authority or at the direction of the Legislative Auditing Committee, conduct an audit of the corporation.

(k) Provide for persons charged with the responsibility of receiving and depositing fee and fine revenues to have a faithful performance bond in such an amount and according to such terms as shall be determined in the contract.

(l) Submit to the secretary, the board, and the Legislature, on or before January 1 of each year, a report on the status of the corporation which includes, but is not limited to, information concerning the programs and funds that have been transferred to the corporation. The report must include: the number of license applications received; the number approved and denied and the number of licenses issued; the number of examinations administered and the number of applicants who passed or failed the examination; the number of complaints received; the number determined to be legally sufficient; the number dismissed; the number determined to have probable cause; the number of administrative complaints issued and the status of the complaints; and the number and nature of disciplinary actions taken by the board.

(m) Develop, with the department, performance standards and measurable outcomes for the board to adopt by rule in order to facilitate efficient and cost-effective regulation.

Section 128. Subsection (3) of section 509.036, Florida Statutes, is amended to read:

509.036 Public food service inspector standardization.—

(3) The division and its agent shall adopt rules in accordance with the provisions of chapter 120 to provide for disciplinary action in cases of inspector negligence. An inspector may be subject to suspension or dismissal for cause as set forth in s. *109.227* ~~110.227~~.

Section 129. Effective July 1, 2001, subsection (3) of section 509.036, Florida Statutes, as amended by this act, is amended to read:

509.036 Public food service inspector standardization.—

(3) The division and its agent shall adopt rules in accordance with the provisions of chapter 120 to provide for disciplinary action in cases of inspector negligence. An inspector may be subject to suspension or dismissal for *reasonable* cause as set forth in s. 109.227.

Section 130. Subsection (1) of section 570.073, Florida Statutes, is amended to read:

570.073 Department of Agriculture and Consumer Services, law enforcement officers.—

(1) The commissioner may create an Office of Agricultural Law Enforcement under the supervision of a senior manager exempt under s. *109.205* ~~110.205~~ in the Senior Management Service. The commissioner may designate law enforcement officers, as necessary, to enforce any criminal law or conduct any criminal investigation relating to any matter over which the department has jurisdiction or which occurs on property owned, managed, or occupied by the department. Those matters include laws relating to:

(a) Domesticated animals, including livestock, poultry, aquaculture products, and other wild or domesticated animals or animal products.

(b) Farms, farm equipment, livery tack, citrus or citrus products, or horticultural products.

(c) Trespass, littering, forests, forest fires, and open burning.

(d) Damage to or theft of forest products.

(e) Enforcement of a marketing order.

(f) Protection of consumers.

(g) Civil traffic offenses provided for in chapters 316, 320, and 322, subject to the provisions of chapter 318, relating to any matter over which the department has jurisdiction or committed on property owned, managed, or occupied by the department.

(h) The use of alcohol or drugs which occurs on property owned, managed, or occupied by the department.

(i) Any emergency situation in which the life, limb, or property of any person is placed in immediate and serious danger.

(j) Any crime incidental to or related to paragraphs (a)-(i).

Section 131. Section 570.074, Florida Statutes, is amended to read:

570.074 Department of Agriculture and Consumer Services; water policy coordination.—The commissioner may create an Office of Water Coordination under the supervision of a senior manager exempt under s. *109.205* ~~110.205~~ in the Senior Management Service. The commissioner may designate the bureaus and positions in the various organizational divisions of the department that report to this office relating to any matter over which the department has jurisdiction in matters relating to water policy affecting agriculture, application of such policies, and coordination of such matters with state and federal agencies.

Section 132. Subsection (6) of section 624.307, Florida Statutes, is amended to read:

624.307 General powers; duties.—

(6) The department may employ actuaries who shall be at-will employees and who shall serve at the pleasure of the Insurance Commissioner. Actuaries employed pursuant to this paragraph shall be members of the Society of Actuaries or the Casualty Actuarial Society and shall be exempt from the Career Service System established under chapter *109* ~~110~~. The salaries of the actuaries employed pursuant to this paragraph by the department shall be set in accordance with s. 216.251(2)(a)5. and shall be set at levels which are commensurate with salary levels paid to actuaries by the insurance industry.

Section 133. Subsection (4) of section 627.0623, Florida Statutes, is amended to read:

627.0623 Restrictions on expenditures and solicitations of insurers and affiliates.—

(4) No employee of the department may solicit a campaign contribution for the Treasurer or any candidate for the office of Treasurer from any insurer, affiliate, or officer of an insurer or affiliate, or any political committee or committee of continuous existence that represents such insurer, affiliate, or officer. For purposes of this section,

"employee of the department" means any person employed in the Department of Insurance or the Treasurer's office holding a position in the Senior Management Service as defined in s. *109.402* ~~110.402~~; any person holding a position in the Selected Exempt Service as defined in s. *109.602* ~~110.602~~; any person having authority over insurance policy, regulation, or supervision; or any person hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Section 134. Paragraph (h) of subsection (4) of section 627.6488, Florida Statutes, is amended to read:

627.6488 Florida Comprehensive Health Association.—

(4) The association shall:

(h) Contract with preferred provider organizations and health maintenance organizations giving due consideration to the preferred provider organizations and health maintenance organizations which have contracted with the state group health insurance program pursuant to s. *109.123* ~~110.123~~. If cost-effective and available in the county where the policyholder resides, the board, upon application or renewal of a policy, shall place a high-risk individual, as established under s. 627.6498(4)(a)4., with the plan case manager who shall determine the most cost-effective quality care system or health care provider and shall place the individual in such system or with such health care provider. If cost-effective and available in the county where the policyholder resides, the board, with the consent of the policyholder, may place a low-risk or medium-risk individual, as established under s. 627.6498(4)(a)4., with the plan case manager who may determine the most cost-effective quality care system or health care provider and shall place the individual in such system or with such health care provider. Prior to and during the implementation of case management, the plan case manager shall obtain input from the policyholder, parent, or guardian.

Section 135. Paragraph (a) of subsection (1) of section 627.649, Florida Statutes, is amended to read:

627.649 Administrator.—

(1) The board shall select an administrator, through a competitive bidding process, to administer the plan. The board shall evaluate bids submitted under this subsection based on criteria established by the board, which criteria shall include:

(a) The administrator's proven ability to handle large group accident and health insurance, and due consideration shall be given to any administrator who has acted as a third-party administrator for the state group health insurance program pursuant to s. *109.123* ~~110.123~~.

Section 136. Paragraph (a) of subsection (2) and subsection (3) of section 627.6498, Florida Statutes, are amended to read:

627.6498 Minimum benefits coverage; exclusions; premiums; deductibles.—

(2) BENEFITS.—

(a) The plan shall offer major medical expense coverage similar to that provided by the state group health insurance program as defined in s. *109.123* ~~110.123~~ except as specified in subsection (3) to every eligible person who is not eligible for Medicare. Major medical expense coverage offered under the plan shall pay an eligible person's covered expenses, subject to limits on the deductible and coinsurance payments authorized under subsection (4), up to a lifetime limit of $500,000 per covered individual. The maximum limit under this paragraph shall not be altered by the board, and no actuarially equivalent benefit may be substituted by the board.

(3) COVERED EXPENSES.—The coverage to be issued by the association shall be patterned after the state group health insurance program as defined in s. *109.123* ~~110.123~~, including its benefits, exclusions, and other limitations, except as otherwise provided in this act. The plan may cover the cost of experimental drugs which have been approved for use by the Food and Drug Administration on an experimental basis if the cost is less than the usual and customary treatment. Such coverage shall only apply to those insureds who are in the case management system upon the approval of the insured, the case manager, and the board.

Section 137. Subsection (4) of section 627.6617, Florida Statutes, is amended to read:

627.6617 Coverage for home health care services.—

(4) The provisions of this section shall not apply to a multiple-employer welfare arrangement as defined in s. 624.437(1) and in the State Health Plan as provided in s. *109.123* ~~110.123~~.

Section 138. Subsection (3) of section 655.019, Florida Statutes, is amended to read:

655.019 Campaign contributions; limitations.—

(3) No employee of the department may solicit a campaign contribution for the Comptroller or any candidate for the office of the Comptroller from any person who is licensed or otherwise authorized to do business by the department or who has an application pending for licensure or other authorization to do business pending with the department, or any director, officer, employee, agent, retained legal counsel, lobbyist, or partner or affiliate of that person or any political committee or committee of continuous existence that represents that person. For purposes of this section, "employee of the department" means any person employed in the department or the Comptroller's office holding a position in the Senior Management Service as defined in s. *109.402* ~~110.402~~; any person holding a position in the Selected Exempt Service as defined in s. *109.602* ~~110.602~~; any person having authority over institution policy, regulation, or supervision; or any person hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

Section 139. Paragraph (a) of subsection (4) of section 943.0585, Florida Statutes, is amended to read:

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom.

This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any criminal history record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record; except that any criminal history record in the custody of the department must be retained in all cases. A criminal history record ordered expunged that is retained by the department is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and not available to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge.

(a) The person who is the subject of a criminal history record that is expunged under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently petitions for relief under this section or s. 943.059;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. *109.1127(3)* ~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity that licenses child care facilities.

Section 140. Paragraph (a) of subsection (4) of section 943.059, Florida Statutes, is amended to read:

943.059 Court-ordered sealing of criminal history records.—The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a certificate of eligibility for sealing pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be sealed, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed or pled guilty or nolo contendere to committing the offense as a delinquent act. The court may only order sealing of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the sealing of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the sealing of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not seal any record pertaining to such additional arrests if the order to seal does not articulate the intention of the court to seal records pertaining to more than one arrest. This section does not prevent the court from ordering the sealing of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for sealing a criminal history record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal history record of a minor or an adult which is ordered sealed by a court of competent jurisdiction pursuant to this section is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is available only to the person who is the subject of the record, to the subject's attorney, to criminal justice agencies for their respective criminal justice purposes, or to those entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes.

(a) The subject of a criminal history record sealed under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently petitions for relief under this section or s. 943.0585;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. *109.1127(3)* ~~110.1127(3)~~, s. 393.063(15), s. 394.4572(1), s. 397.451, s. 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity which licenses child care facilities.

Section 141. Subsection (4) of section 943.22, Florida Statutes, is amended to read:

943.22 Salary incentive program for full-time officers.—

(4) No individual filling a position in the Senior Management Service as defined in s. *109.402* ~~110.402~~ is eligible to participate in the salary incentive program authorized by this section.

Section 142. Paragraph (c) of subsection (3) of section 944.35, Florida Statutes, is amended to read:

944.35 Authorized use of force; malicious battery and sexual misconduct prohibited; reporting required; penalties.—

(3)

(c) Notwithstanding prosecution, any violation of the provisions of this subsection, as determined by the Public Employees Relations Commission, shall constitute sufficient cause under s. *109.227* ~~110.227~~ for dismissal from employment with the department, and such person shall not again be employed in any capacity in connection with the correctional system.

Section 143. Subsection (2) of section 945.043, Florida Statutes, is amended to read:

945.043 Department-operated day care services.—

(2) The department is exempt from the requirements of s. *109.151* ~~110.151~~.

Section 144. Subsection (6) of section 957.03, Florida Statutes, is amended to read:

957.03 Correctional Privatization Commission.—

(6) SUPPORT BY DEPARTMENT OF MANAGEMENT SERVICES.—The commission shall be a separate budget entity, and the executive director shall be its chief administrative officer. The Department of Management Services shall provide administrative support and service to the commission to the extent requested by the executive director. The commission and its staff are not subject to control, supervision, or direction by the Department of Management Services in any manner, including, but not limited to, personnel, purchasing, and budgetary matters, except to the extent as provided in chapters *109* ~~110~~, 216, 255, 282, and 287 for agencies of the executive branch. The executive director may designate a maximum of two policymaking or managerial positions as being exempt from the Career Service System. These two positions may be provided for as members of the Senior Management Service.

Section 145. Subsection (2) of section 985.04, Florida Statutes, is amended to read:

985.04 Oaths; records; confidential information.—

(2) Records maintained by the Department of Juvenile Justice, including copies of records maintained by the court, which pertain to a child found to have committed a delinquent act which, if committed by an adult, would be a crime specified in ss. *109.1127* ~~110.1127~~, 393.0655, 394.457, 397.451, 402.305(2), 409.175, and 409.176 may not be destroyed pursuant to this section, except in cases of the death of the child. Such records, however, shall be sealed by the court for use only in meeting the screening requirements for personnel in s. 402.3055 and the other sections cited above, or pursuant to departmental rule; however, current criminal history information must be obtained from the Department of Law Enforcement in accordance with s. 943.053. The information shall be released to those persons specified in the above cited sections for the purposes of complying with those sections. The court may punish by contempt any person who releases or uses the records for any unauthorized purpose.

Section 146. Paragraph (e) of subsection (4) of section 985.05, Florida Statutes, is amended to read:

985.05 Court records.—

(4) A court record of proceedings under this part is not admissible in evidence in any other civil or criminal proceeding, except that:

(e) Records of proceedings under this part may be used to prove disqualification pursuant to ss. *109.1127* ~~110.1127~~, 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175, 409.176, and 985.407.

Section 147. Paragraph (b) of subsection (1) of section 985.4045, Florida Statutes, is amended to read:

985.4045 Sexual misconduct prohibited; reporting required; penalties.—

(1)

(b) Notwithstanding prosecution, any violation of this subsection, as determined by the Public Employees Relations Commission, constitutes sufficient cause under s. *109.227* ~~110.227~~ for dismissal from employment with the department, and such person may not again be employed in any capacity in connection with the juvenile justice system.

Section 148. Paragraph (c) of subsection (1) of section 216.262, Florida Statutes, is amended to read:

216.262 Authorized positions.—

(1)

(c)1. The Executive Office of the Governor, under such procedures and qualifications as it deems appropriate, shall, upon agency request, delegate to any state agency authority to add and delete authorized positions or transfer authorized positions from one budget entity to another budget entity within the same division, and may approve additions and deletions of authorized positions or transfers of authorized positions within the state agency when such changes would enable the agency to administer more effectively its authorized and approved programs. The additions or deletions must be consistent with the intent of the approved operating budget, must be consistent with legislative policy and intent, and must not conflict with specific spending policies specified in the General Appropriations Act.

2. The Chief Justice of the Supreme Court shall have the authority to establish procedures for the judicial branch to add and delete authorized positions or transfer authorized positions from one budget entity to another budget entity, and to add and delete authorized positions within the same budget entity, when such changes are consistent with legislative policy and intent and do not conflict with spending policies specified in the General Appropriations Act.

3.a. A state agency may be eligible for an efficiency award based on changes to authorized positions. To be eligible, the agency must submit an application to the Legislative Budgeting Commission identifying the modification to an approved program resulting in efficiency and cost savings.

b. The amount of the efficiency award shall be determined by the Legislative Budgeting Commission but shall not exceed the actual savings of currently appropriated funds. In determining the amount of the award, the Legislative Budgeting Commission shall consider the actual savings for the current year and the annualized savings. The efficiency award may be used for nonrecurring purposes only.

c. Each state agency allowed to retain salary appropriations pursuant to this subparagraph shall submit in its next legislative budget request a schedule showing how the agency utilized such funds.

Section 149. Effective January 1, 2002, section 447.201, Florida Statutes, is amended to read:

447.201 Statement of policy.—~~It is declared that~~ The public policy of *this* ~~the~~ state, and the purpose of this part, is to provide statutory implementation of s. 6, Art. I of the State Constitution, with respect to public employees; to promote harmonious and cooperative relationships between government and its employees, both collectively and individually; and to protect the public by assuring, at all times, the orderly and uninterrupted operations and functions of government. ~~It is the intent of the Legislature that~~ Nothing herein shall be construed either to encourage or discourage organization of public employees. *This state's public policy is* ~~These policies are~~ best effectuated by:

(1) Granting to public employees the right of organization and representation;

(2) Requiring the state, local governments, and other political subdivisions to negotiate with bargaining agents duly certified to represent public employees;

(3) Creating a Public Employees Relations Commission to assist in resolving disputes between public employees and public employers; and

(4) Recognizing the constitutional prohibition against strikes by public employees and providing remedies for violations of such prohibition.

Section 150. Effective January 1, 2002, subsections (1), (3), and (4) of section 447.205, Florida Statutes, are amended to read:

447.205 Public Employees Relations Commission.—

(1) ~~There is hereby created within the Department of Labor and Employment Security~~ The Public Employees Relations Commission, hereinafter referred to as the "commission*,*." ~~The commission~~ shall be

composed of a chair and two full-time members to be appointed by the Governor, subject to confirmation by the Senate, from persons representative of the public and known for their objective and independent judgment, who shall not be employed by, or hold any commission with, any governmental unit in the state or any employee organization, as defined in this part, while in such office. In no event shall more than one appointee be a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as a representative of employers; and in no event shall more than one such appointee be a person who, on account of previous vocation, employment, or affiliation, is, or has been, classified as a representative of employees or employee organizations. The commissioners shall devote full time to commission duties and shall not engage in any other business, vocation, or employment while in such office. Beginning January 1, 1980, the chair shall be appointed for a term of 4 years, one commissioner for a term of 1 year, and one commissioner for a term of 2 years. Thereafter, every term of office shall be for 4 years; and each term of the office of chair shall commence on January 1 of the second year following each regularly scheduled general election at which a Governor is elected to a full term of office. In the event of a vacancy prior to the expiration of a term of office, an appointment shall be made for the unexpired term of that office. The chair shall be responsible for the administrative functions of the commission and shall have the authority to employ such personnel as may be necessary to carry out the provisions of this part. Once appointed to the office of chair, the chair shall serve as chair for the duration of the term of office of chair. Nothing contained herein prohibits a chair or commissioner from serving multiple terms.

(3) The commission, in the performance of its powers and duties under this part, shall not be subject to control, supervision, or direction by the Department of *Management Services* ~~Labor and Employment Security~~.

(4) The property, personnel, and appropriations related to the commission's specified authority, powers, duties, and responsibilities shall be provided to the commission by the Department of *Management Services* ~~Labor and Employment Security~~.

Section 151. *Effective January 1, 2002, subsections (8), (9), (10), and (11) of section 447.207, Florida Statutes, are repealed.*

Section 152. Effective July 1, 2001, section 447.208, Florida Statutes, is amended to read:

447.208 Procedure *for* ~~with respect to~~ certain appeals under s. 447.207.—

(1) Any person filing an appeal pursuant to subsection (8) or subsection (9) of s. 447.207 shall be entitled to a hearing pursuant to subsections (4) and (5) of s. 447.503 and in accordance with chapter 120; however, the hearing shall be conducted within 30 days of the filing of an appeal with the commission, unless an extension of time is granted by the commission for good cause. Discovery may be granted only upon a showing of extraordinary circumstances. A party requesting discovery shall demonstrate a substantial need for the information requested and an inability to obtain relevant information by other means. To the extent that chapter 120 is inconsistent with these provisions, the procedures contained in this section shall govern.

(2) This section does not prohibit any person from representing himself or herself in proceedings before the commission or from being represented by legal counsel or by any individual who qualifies as a representative pursuant to rules promulgated and adopted by the commission.

(3) With respect to hearings relating to demotions, suspensions, or dismissals pursuant to the provisions of this section:

(a)1. For an alleged adverse agency action against an employee, except a law enforcement or correctional officer or a firefighter, occurring on or after July 1, 2001, the burden of proof shall be on the employee requesting the appeal to establish by a preponderance of the evidence that the agency head abused his or her discretion in demoting, suspending, or dismissing the employee and that no reasonable cause existed for the alleged adverse action taken by the agency.

2.~~(a)~~ Upon a finding that *the adversely affected employee was unable to establish that the agency head abused his or her discretion and was unable to establish that no reasonable* ~~just~~ cause existed for the demotion, suspension, or dismissal, the commission shall affirm the demotion, suspension, or dismissal.

3.~~(b)~~ Upon a finding that *the adversely affected employee established that the agency head abused his or her discretion and that no reasonable* ~~just~~ cause *existed* ~~did not exist~~ for the demotion, suspension, or dismissal, the commission may order the reinstatement of the employee, with or without back pay.

(b) With regard to a law enforcement or correctional officer or a firefighter:

1. Upon a finding that just cause existed for the demotion, suspension, or dismissal, the commission shall affirm the demotion, suspension, or dismissal.

2. Upon a finding that just cause did not exist for the demotion, suspension, or dismissal, the commission may order the reinstatement of the law enforcement or correctional officer or firefighter, with or without back pay.

3.~~(c)~~ Upon a finding that just cause for disciplinary action existed, but did not justify the severity of the action taken, the commission may, in its limited discretion, reduce the penalty.

~~(d)~~ The commission is limited in its discretionary reduction of dismissals and suspensions to consider only the following circumstances:

a.~~1.~~ The seriousness of the conduct as it relates to the employee's duties and responsibilities.

b.~~2.~~ Action taken with respect to similar conduct by other employees.

c.~~3.~~ The previous employment record and disciplinary record of the employee.

d.~~4.~~ Extraordinary circumstances beyond the employee's control which temporarily diminished the employee's capacity to effectively perform his or her duties or which substantially contributed to the violation for which punishment is being considered.

The agency may present evidence to refute the existence of these circumstances.

(c)~~(e)~~ Any order of the commission issued pursuant to this subsection may include back pay, if applicable, and an amount, to be determined by the commission and paid by the agency, for reasonable attorney's fees, witness fees, and other out-of-pocket expenses incurred during the prosecution of an appeal against an agency in which the commission *finds* ~~sustains~~ the employee *met his or her burden of proof by establishing that the agency head abused his or her discretion and that no reasonable cause existed for the employee's demotion, suspension, or dismissal*. In determining the amount of an attorney's fee, the commission shall consider only the number of hours reasonably spent on the appeal, comparing the number of hours spent on similar Career Service System appeals and the reasonable hourly rate charged in the geographic area for similar appeals, but not including litigation over the amount of the attorney's fee. ~~This paragraph applies to future and pending cases.~~

Section 153. *Effective January 1, 2002, sections 447.208 and 447.2085, Florida Statutes, are repealed.*

Section 154. Paragraph (i) is added to subsection (4) of section 447.307, Florida Statutes, to read:

447.307 Certification of employee organization.—

(4) In defining a proposed bargaining unit, the commission shall take into consideration:

(i) Notwithstanding any other provision of law, administrative rule, or decision to the contrary, it is in the best interest of the state that all state law enforcement agencies with 1,200 or more officers shall be placed in a separate bargaining unit from officers in other state law enforcement agencies. Should application of this requirement result in the establishment or recomposition of more than one state law enforcement bargaining unit, a question concerning representation shall be deemed to have arisen for each affected bargaining unit and, upon appropriate petition, a representation election to determine the bargaining representative shall be conducted.

However, no unit shall be established or approved for purposes of collective bargaining which includes both professional and nonprofessional employees unless a majority of each group votes for inclusion in such unit.

Section 155. Effective July 1, 2001, paragraph (a) of subsection (6) of section 447.503, Florida Statutes, is amended to read:

447.503 Charges of unfair labor practices.—It is the intent of the Legislature that the commission act as expeditiously as possible to settle disputes regarding alleged unfair labor practices. To this end, violations of the provisions of s. 447.501 shall be remedied by the commission in accordance with the following procedures and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with the provisions of this section, the procedures contained in this section shall govern:

(6)(a) If, upon consideration of the record in the case, the commission finds that an unfair labor practice has been committed, it shall issue and cause to be served an order requiring the appropriate party or parties to cease and desist from the unfair labor practice and take such positive action, including reinstatement of employees with or without back pay, as will best implement the general policies expressed in this part. However, no order of the commission shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment of any back pay, if the individual was suspended or discharged *as otherwise provided by law* ~~for cause~~. The order may further require the party or parties to make periodic reports showing the extent to which it has complied with the order. If, upon consideration of the record in the case, the commission finds that an unfair labor practice has not been or is not being committed, it shall issue an order dismissing the case.

Section 156. Paragraph (a) of subsection (5) of section 447.507, Florida Statutes, is amended to read:

447.507 Violation of strike prohibition; penalties.—

(5) If the commission, after a hearing on notice conducted according to rules promulgated by the commission, determines that an employee has violated s. 447.505, it may order the termination of his or her employment by the public employer. Notwithstanding any other provision of law, a person knowingly violating the provision of said section may, subsequent to such violation, be appointed, reappointed, employed, or reemployed as a public employee, but only upon the following conditions:

(a) Such person shall be on probation for a period of *18* ~~6~~ months following his or her appointment, reappointment, employment, or reemployment, during which period he or she shall serve without *permanent status and at the pleasure of the agency head* ~~tenure~~. ~~During this period, the person may be discharged only upon a showing of just cause.~~

Section 157. Effective January 1, 2002, paragraph (m) of subsection (2) of section 39.202, Florida Statutes, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Access to such records, excluding the name of the reporter which shall be released only as provided in subsection (4), shall be granted only to the following persons, officials, and agencies:

(m) The *Office of Employee Relations within the Department of Management Services* ~~Public Employees Relations Commission~~ for the sole purpose of obtaining evidence for *voluntary binding arbitration conducted* ~~appeals filed~~ pursuant to s. *109.240* ~~447.207~~. Records may be released only after deletion of all information which specifically identifies persons other than the employee.

Section 158. Effective January 1, 2002, subsection (4) of section 112.044, Florida Statutes, as amended by this act, is amended to read:

112.044 Public employers, employment agencies, labor organizations; discrimination based on age prohibited; exceptions; remedy.—

(4) APPEAL; CIVIL SUIT AUTHORIZED.—Any employee of the state ~~who is within the Career Service System established by chapter 109 and~~ who is aggrieved by a violation of this act may ~~appeal to the Public Employees Relations Commission under the conditions and following the procedures prescribed in part II of chapter 447. Any person other than an employee who is within the Career Service System established by chapter 109, or any person employed by the Public Employees Relations Commission, who is aggrieved by a violation of this act may~~ bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this act*, unless voluntary binding arbitration is conducted pursuant to s. 109.240*.

Section 159. Effective January 1, 2002, paragraph (b) of subsection (6), subsection (14), and paragraph (a) of subsection (15) of section 112.0455, Florida Statutes, are amended to read:

112.0455 Drug-Free Workplace Act.—

(6) NOTICE TO EMPLOYEES.—

(b) Prior to testing, all employees and job applicants for employment shall be given a written policy statement from the employer which contains:

1. A general statement of the employer's policy on employee drug use, which shall identify:

a. The types of testing an employee or job applicant may be required to submit to, including reasonable suspicion or other basis; and

b. The actions the employer may take against an employee or job applicant on the basis of a positive confirmed drug test result.

2. A statement advising the employee or job applicant of the existence of this section.

3. A general statement concerning confidentiality.

4. Procedures for employees and job applicants to confidentially report the use of prescription or nonprescription medications both before and after being tested. Additionally, employees and job applicants shall receive notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications shall be developed by the Agency for Health Care Administration.

5. The consequences of refusing to submit to a drug test.

6. Names, addresses, and telephone numbers of employee assistance programs and local alcohol and drug rehabilitation programs.

7. A statement that an employee or job applicant who receives a positive confirmed drug test result may contest or explain the result to the employer within 5 working days after written notification of the positive test result. If an employee or job applicant's explanation or challenge is unsatisfactory to the employer, the person may contest the drug test result as provided by subsections (14) and (15).

8. A statement informing the employee or job applicant of his or her responsibility to notify the laboratory of any administrative or civil actions brought pursuant to this section.

9. A list of all drugs for which the employer will test, described by brand names or common names, as applicable, as well as by chemical names.

10. A statement regarding any applicable collective bargaining agreement or contract and the right to appeal to the *circuit court or request voluntary binding arbitration, if applicable, as provided for by s. 109.240* ~~Public Employees Relations Commission~~.

11. A statement notifying employees and job applicants of their right to consult the testing laboratory for technical information regarding prescription and nonprescription medication.

(14) DISCIPLINE REMEDIES.—

(a) An executive branch employee who is disciplined or who is a job applicant for another position and is not hired pursuant to this section, may file an appeal with the *circuit court or request voluntary binding arbitration, if applicable, as provided for by s. 109.240* ~~Public Employees Relations Commission~~. Any appeal must be filed within 30 calendar days of receipt by the employee or job applicant of notice of discipline or refusal to hire. The notice shall inform the employee or job applicant of the right to file an appeal, or if available, the right to file a collective bargaining grievance pursuant to s. 447.401. ~~Such appeals shall be resolved pursuant to the procedures established in ss. 447.207(1)-(4), 447.208(2), and 447.503(4) and (5).~~ A hearing on the appeal shall be conducted within 30 days *after* ~~of~~ the filing of the appeal, unless an extension is requested by the employee or job applicant and granted by the *court* ~~commission~~ or *a collective bargaining grievance* ~~an~~ arbitrator.

~~(b) The commission shall promulgate rules concerning the receipt, processing, and resolution of appeals filed pursuant to this section.~~

~~(c) Appeals to the commission shall be the exclusive administrative remedy for any employee who is disciplined or any job applicant who is not hired pursuant to this section, notwithstanding the provisions of chapter 120. However,~~ Nothing in this subsection shall affect the right of an employee or job applicant to file a collective bargaining grievance pursuant to s. 447.401 provided that an employee or job applicant may not file both an appeal and a grievance.

~~(d) An employee or a job applicant who has been disciplined or who has not been hired pursuant to this section must exhaust either the administrative appeal process or collective bargaining grievance-arbitration process.~~

~~(e) Upon resolving an appeal filed pursuant to paragraph (c), and finding a violation of this section, the commission may order the following relief:~~

~~1. Rescind the disciplinary action, expunge related records from the personnel file of the employee or job applicant and reinstate the employee.~~

~~2. Order compliance with paragraph (10)(g).~~

~~3. Award back pay and benefits.~~

(b)~~4.~~ *The court may* award the prevailing employee or job applicant the necessary costs of the appeal, reasonable attorney's fees, and expert witness fees.

(15) NONDISCIPLINE REMEDIES.—

(a) Any person alleging a violation of the provisions of this section, that is not remediable ~~by the commission or an arbitrator~~ pursuant to subsection (14), must institute a civil action for injunctive relief or damages, or both, in a court of competent jurisdiction within 180 days of the alleged violation, or be barred from obtaining the following relief. Relief is limited to:

1. An order restraining the continued violation of this section.

2. An award of the costs of litigation, expert witness fees, reasonable attorney's fees, and noneconomic damages provided that damages shall be limited to the recovery of damages directly resulting from injury or loss caused by each violation of this section.

Section 160. Effective July 1, 2001, paragraph (a) of subsection (3) and subsection (4) of section 112.31895, Florida Statutes, are amended to read:

112.31895 Investigative procedures in response to prohibited personnel actions.—

(3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

(a) The Florida Commission on Human Relations, in accordance with this act and for the sole purpose of this act, is empowered to:

1. Receive and investigate complaints from employees alleging retaliation by state agencies, as the term "state agency" is defined in s. 216.011.

2. Protect employees and applicants for employment with such agencies from prohibited personnel practices under s. 112.3187.

3. Petition for stays and petition for corrective actions, including, but not limited to, temporary reinstatement.

4. Recommend disciplinary proceedings pursuant to investigation and appropriate agency rules and procedures.

5. Coordinate with the Chief Inspector General in the Executive Office of the Governor and the Florida Commission on Human Relations to receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds.

6. Review rules pertaining to personnel matters issued or proposed by the Department of Management Services, *the Office of Employee Relations,* the Public Employees Relations Commission, and other agencies, and, if the Florida Commission on Human Relations finds that any rule or proposed rule, on its face or as implemented, requires the commission of a prohibited personnel practice, provide a written comment to the appropriate agency.

7. Investigate, request assistance from other governmental entities, and, if appropriate, bring actions concerning, allegations of retaliation by state agencies under subparagraph 1.

8. Administer oaths, examine witnesses, take statements, issue subpoenas, order the taking of depositions, order responses to written interrogatories, and make appropriate motions to limit discovery, pursuant to investigations under subparagraph 1.

9. Intervene or otherwise participate, as a matter of right, in any appeal or other proceeding arising under this section before *an* ~~the Public Employees Relations Commission or any other appropriate~~ agency, except that the Florida Commission on Human Relations must comply with the rules of *that* ~~the commission or other~~ agency and may not seek corrective action or intervene in an appeal or other proceeding without the consent of the person protected under ss. 112.3187-112.31895.

10. Conduct an investigation, in the absence of an allegation, to determine whether reasonable grounds exist to believe that a prohibited action or a pattern of prohibited action has occurred, is occurring, or is to be taken.

(4) RIGHT TO APPEAL.—

~~(a)~~ Not more than 60 days after receipt of a notice of termination of the investigation from the Florida Commission on Human Relations, the complainant may file *for judicial review of the notice of termination as provided for in s. 120.68. The notice of termination of the investigation, which shall contain a statement of facts, analysis, and conclusions, shall be considered final agency action for purposes of s. 120.68.*~~, with the Public Employees Relations Commission, a complaint against the hearings regarding the alleged prohibited personnel action. The Public Employees Relations Commission shall have jurisdiction over such complaints under ss. 112.3187 and 447.503(4) and (5).~~

~~(b) Judicial review of any final order of the commission shall be as provided in s. 120.68.~~

Section 161. Effective January 1, 2002, paragraph (a) of subsection (3) of section 112.31895, Florida Statutes, as amended by this act, is amended to read:

112.31895 Investigative procedures in response to prohibited personnel actions.—

(3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

(a) The Florida Commission on Human Relations, in accordance with this act and for the sole purpose of this act, is empowered to:

1. Receive and investigate complaints from employees alleging retaliation by state agencies, as the term "state agency" is defined in s. 216.011.

2. Protect employees and applicants for employment with such agencies from prohibited personnel practices under s. 112.3187.

3. Petition for stays and petition for corrective actions, including, but not limited to, temporary reinstatement.

4. Recommend disciplinary proceedings pursuant to investigation and appropriate agency rules and procedures.

5. Coordinate with the Chief Inspector General in the Executive Office of the Governor and the Florida Commission on Human Relations to receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds.

6. Review rules pertaining to personnel matters issued or proposed by the Department of Management Services, the Office of Employee Relations, ~~the Public Employees Relations Commission,~~ and other agencies, and, if the Florida Commission on Human Relations finds that any rule or proposed rule, on its face or as implemented, requires the commission of a prohibited personnel practice, provide a written comment to the appropriate agency.

7. Investigate, request assistance from other governmental entities, and, if appropriate, bring actions concerning, allegations of retaliation by state agencies under subparagraph 1.

8. Administer oaths, examine witnesses, take statements, issue subpoenas, order the taking of depositions, order responses to written interrogatories, and make appropriate motions to limit discovery, pursuant to investigations under subparagraph 1.

9. Intervene or otherwise participate, as a matter of right, in any appeal or other proceeding arising under this section before an agency, except that the Florida Commission on Human Relations must comply with the rules of that agency and may not seek corrective action or intervene in an appeal or other proceeding without the consent of the person protected under ss. 112.3187-112.31895.

10. Conduct an investigation, in the absence of an allegation, to determine whether reasonable grounds exist to believe that a prohibited action or a pattern of prohibited action has occurred, is occurring, or is to be taken.

Section 162. Effective July 1, 2001, subsection (12) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(12) *OFFICE OF EMPLOYEE RELATIONS;* PUBLIC EMPLOYEES RELATIONS COMMISSION.—

(a) Notwithstanding s. 120.57(1)(a), hearings within the jurisdiction of the *Office of Employee Relations within the Department of Management Services or the* Public Employees Relations Commission need not be conducted by an administrative law judge assigned by the division.

(b) Section 120.60 does not apply to certification of employee organizations pursuant to s. 447.307.

Section 163. *Paragraph (d) of subsection (2) of section 125.0108, Florida Statutes, is repealed.*

Section 164. Paragraph (b) of subsection (9) of section 376.75, Florida Statutes, is amended to read:

376.75 Tax on production or importation of perchloroethylene.—

(9)

(b) ~~The Department of Revenue, under the applicable rules of the Public Employees Relations Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.~~ The Department of Revenue is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section.

Section 165. Paragraph (b) of subsection (3) of section 403.718, Florida Statutes, is amended to read:

403.718 Waste tire fees.—

(3)

(b) ~~The Department of Revenue, under the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.~~ The department is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess delinquent fees.

Section 166. Section 538.11, Florida Statutes, is amended to read:

538.11 Powers and duties of department; rules.—The same duties and privileges imposed by chapter 212 upon dealers of tangible personal property respecting the keeping of books and records and accounts and compliance with rules of the department shall apply to and be binding upon all persons who are subject to the provisions of this chapter. The department shall administer, collect, and enforce the registration authorized under this chapter pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of chapter 212 regarding the keeping of records and books shall apply. ~~The department, under the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature.~~ The department is empowered to adopt such rules, and shall prescribe and publish such forms, as may be necessary to effectuate the purposes of this chapter. The Legislature hereby finds that the failure to promptly implement the provisions of this chapter would present an immediate threat to the welfare of the state. Therefore, the executive director of the department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4), for purposes of implementing this chapter. Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months from the date of adoption. Other rules of the department related to and in furtherance of the orderly implementation of the chapter shall not be subject to a rule challenge under s. 120.56(2) or a drawout proceeding under s. 120.54(3)(c)2. but, once adopted, shall be subject to an invalidity challenge under s. 120.56(3). Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(3)(e)6.

Section 167. Effective July 1, 2001, section 284.30, Florida Statutes, is amended to read:

284.30 State Risk Management Trust Fund; coverages to be provided.—A state self-insurance fund, designated as the "State Risk Management Trust Fund," is created to be set up by the Department of

Insurance and administered with a program of risk management, which fund is to provide insurance, as authorized by s. 284.33, for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, and court-awarded attorney's fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees Relations Commission *or by the Office of Employee Relations*. A party to a suit in any court, to be entitled to have his or her attorney's fees paid by the state or any of its agencies, must serve a copy of the pleading claiming the fees on the Department of Insurance; and thereafter the department shall be entitled to participate with the agency in the defense of the suit and any appeal thereof with respect to such fees.

Section 168. Effective July 1, 2001, section 284.31, Florida Statutes, is amended to read:

284.31 Scope and types of coverages; separate accounts.—The insurance risk management trust fund shall, unless specifically excluded by the Department of Insurance, cover all departments of the State of Florida and their employees, agents, and volunteers and shall provide separate accounts for workers' compensation, general liability, fleet automotive liability, federal civil rights actions under 42 U.S.C. s. 1983 or similar federal statutes, and court-awarded attorney's fees in other proceedings against the state except for such awards in eminent domain or for inverse condemnation or for awards by the Public Employees Relations Commission *or by the Office of Employee Relations*. Unless specifically excluded by the Department of Insurance, the insurance risk management trust fund shall provide fleet automotive liability coverage to motor vehicles titled to the state, or to any department of the state, when such motor vehicles are used by community transportation coordinators performing, under contract to the appropriate department of the state, services for the transportation disadvantaged under part I of chapter 427. Such fleet automotive liability coverage shall be primary and shall be subject to the provisions of s. 768.28 and parts II and III of chapter 284, and applicable rules adopted thereunder, and the terms and conditions of the certificate of coverage issued by the Department of Insurance.

Section 169. Effective January 1, 2002, paragraph (k) of subsection (3) of section 415.107, Florida Statutes, is amended to read:

415.107 Confidentiality of reports and records.—

(3) Access to all records, excluding the name of the reporter which shall be released only as provided in subsection (6), shall be granted only to the following persons, officials, and agencies:

(k) The *Office of Employee Relations* ~~Public Employees Relations Commission~~ for the sole purpose of obtaining evidence for *voluntary binding arbitration conducted* ~~appeals filed~~ pursuant to *s. 109.240 and the Public Employees Relations Commission for the purpose of obtaining evidence for appeals filed pursuant to* s. 447.207. Records may be released only after deletion of all information that specifically identifies persons other than the employee.

Section 170. *Effective January 1, 2002, paragraph (c) of subsection (3) of section 944.35, Florida Statutes, and paragraph (b) of subsection (1) of section 985.4045, Florida Statutes, are repealed.*

Section 171. *The Office of Employee Relations within the Department of Management Services shall coordinate the development and implementation of a transition plan that supports the implementation of this act. The Department of Labor and Employment Security, the Public Employees Relations Commission, and all other state agencies identified by the office shall cooperate fully in developing and implementing the plan and shall dedicate the financial and staff resources that are necessary for such implementation.*

Section 172. *(1) Until July 1, 2001, the Public Employees Relations Commission shall continue to exercise its powers, duties, and functions pursuant to the authority granted it under the Florida Statutes 2000.*

(2) On and after July 1, 2001, the Public Employees Relations Commission shall continue to exercise its powers, duties, and functions pursuant to this act's amendments which take effect July 1, 2001. As to those cases within the Public Employees Relations Commission jurisdiction regarding the suspension, dismissal, reduction in pay, demotion, layoff, or transfer of a career service employee that are pending before the commission on January 1, 2002, the commission shall continue to exercise its authority in order to finalize those existing cases under review.

(3) After June 30, 2002, the jurisdiction of the Public Employees Relations Commission to hear appeals arising out of any suspension, dismissal, reduction in pay, demotion, layoff, or transfer of an employee in the Career Service System shall cease to exist.

Section 173. *There is appropriated to the Department of Management Services for fiscal year 2000-2001, $26,208 of nonrecurring general revenue for the purpose of establishing an administrative staff to implement the provisions of this act.*

Section 174. *Effective January 1, 2002, the Public Employees Relations Commission is transferred from the Department of Labor and Employment Security to the Department of Management Services. The Public Employees Relations Commission shall have all its statutory powers, duties, and functions, as otherwise provided for in this act, transferred to the Department of Management Services. All the Public Employees Relations Commission's records, personnel, property, and unexpended balances of appropriations, allocations, or other funds are transferred to the Department of Management Services as of January 1, 2002, except that such portion of the personnel, property, and unexpended balances of appropriations, allocations, or other funds shall be transferred to the Office of Employee Relations within the Department of Management Services as is sufficient for that office to accomplish its duties and responsibilities as provided for in this act. Accordingly, the Executive Office of the Governor shall process a budget amendment, or budget amendments, subject to legislative notice and review under s. 216.177, Florida Statutes, to transfer such records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Public Employees Relations Commission to the Office of Employee Relations as is sufficient for that office to perform its statutory duties and responsibilities. The Office of Employee Relations, the Public Employees Relations Commission, and the Department of Management Services shall work cooperatively in preparing and forwarding to the Executive Office of the Governor a recommended budget amendment, or amendments, no later than September 1, 2001.*

Section 175. *The Department of Management Services shall adopt, amend, or repeal rules as necessary to effectuate the provisions of chapter 109, Florida Statutes, as created by this act, and in accordance with the authority granted to the department in chapter 109, Florida Statutes.*

Section 176. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to public employees; renumbering parts I, II, III, IV, and V of ch. 110, F.S., as parts I, II, III, IV, and V of ch. 109, F.S.; amending and renumbering s. 110.107, F.S.; revising definitions; repealing s. 110.108, F.S., relating to pilot projects for agencies seeking managerial flexibility for personnel programs, s. 110.109, F.S., relating to personnel audits of agencies, and s. 110.1095, F.S., relating to training programs for supervisors and managers; amending and renumbering s. 110.1099, F.S.; specifying duties of agency heads with respect to education and training opportunities for state employees; amending and renumbering s. 110.112, F.S.; providing policy relating to use of human resources; revising provisions relating to implementation of affirmative action plans by agency heads, state attorneys, and public defenders; amending and renumbering s. 110.113, F.S.; requiring all state employees to participate in the direct deposit program; revising conditions for requesting an exemption; amending and renumbering s. 110.124, F.S.; providing that an employee who is terminated solely because of attaining age 65 may request voluntary binding arbitration or apply to the circuit court for relief; amending and renumbering s. 110.1245, F.S.;

providing for a savings sharing program of awards for certain state agency and judicial branch employees; requiring a report; providing for annual bonus payments to employees; directing agency heads to develop a plan for awarding bonuses and providing requirements with respect thereto; authorizing department heads to incur expenditures for certain awards; repealing s. 110.1246, F.S., which provides for lump-sum bonus payments to employees; amending and renumbering s. 110.131, F.S.; revising the time limitation on employment of other-personal-services temporary employees; requiring approval of the Governor's Office of Policy and Budget for extensions of such limitations; revising exemptions from such limitation; amending and renumbering s. 110.203, F.S.; revising definitions; revising the definition of "layoff" to include outsourcing or privatization; creating s. 109.2035, F.S.; directing the Department of Management Services, in consultation with specified entities, to develop a civil service classification and compensation program and providing requirements with respect thereto; directing the department to establish guidelines regarding certain types of pay and providing duties of agencies with respect thereto; amending and renumbering s. 110.205, F.S.; providing additional positions that are exempt from the Career Service System and included in the Selected Exempt Service; providing that when an employee transfers from the Career Service System to the Selected Exempt Service, unused annual and sick leave, and, under certain conditions, unused compensatory leave, shall carry forward; repealing ss. 109.207 and 109.209, F.S., as renumbered by the act, relating to establishment and maintenance of a uniform classification plan and an equitable pay plan and related agency duties; amending and renumbering ss. 110.211 and 110.213, F.S.; revising requirements with respect to recruitment and selection; requiring completion of a probationary period before attainment of permanent status for new employees; amending and renumbering s. 110.219, F.S.; providing requirements regarding leave benefits for Senior Management Service employees; amending and renumbering s. 110.224, F.S.; revising requirements relating to a review and performance planning system and designating such system a public employee performance evaluation system; revising requirements relating to certain information furnished to employees and employee evaluation; amending and renumbering s. 110.227, F.S.; providing that a career service employee other than a law enforcement or correctional officer or a firefighter may be suspended or dismissed for reasonable cause; providing that reasonable cause shall be determined by the agency head and specifying actions included thereunder; specifying actions that constitute an abuse of the agency head's sound discretion; revising certain responsibilities of agency heads; providing that, except with regard to law enforcement or correctional officers or firefighters, rules regarding layoff shall not include "bumping"; deleting a requirement that a layoff be conducted within an identified competitive area with regard to employees other than law enforcement or correctional officers or firefighters; providing for appeal of reductions in pay, transfers, layoffs, or demotions to, and hearings regarding suspension or dismissal before, the circuit court, or for voluntary binding arbitration with respect thereto; providing that, for any alleged adverse agency action against an employee other than a law enforcement or correctional officer or a firefighter occurring after a specified date, the employee bears the burden of proof to establish that the agency head abused his or her discretion; creating s. 109.237, F.S.; creating an Office of Employee Relations within the Department of Management Services; providing for an executive director, a general counsel, and an administrative assistant, and their qualifications and duties; providing for additional personnel; providing duties of the department; providing powers and duties of the office; creating s. 109.240, F.S.; providing that any permanent career service employee may request voluntary binding arbitration administered by the Office of Employee Relations upon notice of an adverse agency action; providing definitions; providing requirements for such requests; providing for notice to the agency; specifying the employee's burden of proof; providing for arbitrators and their qualifications and authority; providing for employee panels and their qualifications and authority; providing duties of the office; providing for records; providing procedural requirements for arbitration proceedings; providing for rules; providing for application to the circuit court for an order confirming, vacating, or modifying the arbitration decision; providing for immunity; amending and renumbering s. 110.403, F.S.; increasing the limit on the number of Senior Management Service positions; amending and renumbering s. 110.602, F.S.; removing the limit on the number of Selected Exempt Service positions; amending and renumbering ss. 110.1091, 110.1127, 110.117, 110.1227, 110.123, 110.12312, 110.1232, 110.129, 110.152, 110.1521, 110.1522, 110.1523, 110.161, 110.171, 110.191, 110.233, 110.235, 110.401, 110.402, 110.406, 110.502, 110.601, 110.605, and 110.606, F.S.; clarifying and conforming language and correcting cross references; amending ss. 20.171, 20.18, 20.21, 20.23, 20.255, 20.315, 24.105, 24.122, 68.087, 104.31, 106.082, 106.24, 112.044, 112.0805, 112.313, 112.3189, 112.363, 121.021, 121.0515, 121.055, 121.35, 215.94, 216.011, 216.251, 231.381, 235.217, 240.209, 240.2111, 240.507, 241.002, 242.331, 260.0125, 281.02, 287.175, 288.708, 295.07, 296.04, 296.34, 311.07, 339.175, 343.74, 381.85, 393.0657, 400.19, 400.953, 402.3057, 402.55, 402.731, 409.1757, 440.102, 440.4416, 443.171, 456.048, 471.038, 509.036, 570.073, 570.074, 624.307, 627.0623, 627.6488, 627.649, 627.6498, 627.6617, 655.019, 943.0585, 943.059, 943.22, 944.35, 945.043, 957.03, 985.04, 985.05, and 985.4045, F.S.; conforming language and correcting cross references; amending s. 216.262, F.S.; authorizing efficiency awards to state agencies based on changes to authorized positions and providing requirements with respect thereto; amending s. 447.201, F.S., relating to the statement of public policy regarding public employees; amending s. 447.205, F.S., relating to creation of the Public Employees Relations Commission; repealing s. 447.207(8), (9), (10), and (11), F.S., which provide for appeals to the commission with regard to adverse agency actions against career service employees; amending s. 447.208, F.S.; providing the employee's burden of proof for alleged adverse agency actions occurring on or after July 1, 2001; repealing s. 447.208, F.S., which provides procedures for appeals to the commission regarding certain adverse agency actions, and s. 447.2085, F.S., which provides for rules with respect thereto, effective January 1, 2002; amending s. 447.307, F.S.; providing requirements with respect to bargaining units for certain law enforcement agencies; amending s. 447.503, F.S.; conforming language; amending s. 447.507, F.S.; revising conditions under which a person who violates the strike prohibition may be employed or appointed; amending s. 39.202, F.S.; providing for access to certain records by the office; amending s. 112.044, F.S., which prohibits age discrimination against public employees; providing for court action by an aggrieved employee if voluntary binding arbitration is not conducted; amending s. 112.0455, F.S., the Drug-Free Workplace Act; providing for appeals with respect to discipline or not being hired under said act to the circuit court rather than the commission, or for voluntary binding arbitration; amending s. 112.31895, F.S.; providing for judicial review of notice of termination of an investigation in connection with the Whistle-blower's Act rather than commission review; conforming language; amending s. 120.80, F.S.; conforming language; repealing s. 125.0108(2)(d), F.S., and amending ss. 376.75, 403.718, and 538.11, F.S.; removing provisions which authorize certain actions by the Department of Revenue pursuant to rules of the commission or the Career Service Commission; amending ss. 284.30 and 284.31, F.S.; conforming language; amending s. 415.107, F.S.; providing for access to certain records by the office; repealing ss. 944.35(3)(c) and 985.4045(1)(b), F.S., which provide that violations by Department of Corrections employees of prohibitions against malicious battery and sexual misconduct, and violations by Department of Juvenile Justice employees of the prohibition against sexual misconduct, as determined by the commission, constitute cause for dismissal; directing the office to coordinate a transition plan; specifying transitional powers and duties of the commission and providing that it shall cease to hear certain appeals after June 30, 2002; providing an appropriation; transferring the commission to the Department of Management Services and certain of its property and personnel to the office; providing for budget amendments; providing for rules; providing effective dates.

Rep. Diaz-Balart moved the adoption of the amendment.

On motion by Rep. Diaz-Balart, further consideration of **CS for SB 466**, with pending amendment, was temporarily postponed under Rule 11.10.

Continuation of Bills and Joint Resolutions on Third Reading

CS for SB 252—A bill to be entitled An act relating to release of employee information by employers; providing specified requirements of employers with respect to a background investigation of an applicant for employment or appointment as a full-time, part-time, or auxiliary law enforcement officer, correctional officer, or correctional probation officer; providing requirements relating to an authorization to release information; defining the terms "employing agency" and "employment information"; providing for injunctive relief; providing qualified immunity from civil liability for release; providing for fees to cover certain costs incurred by the employer; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 364

Yeas—115

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

Nays—None

Votes after roll call:
Yeas—Kendrick, Stansel

So the bill passed and was immediately certified to the Senate.

Consideration of **SB 272** was temporarily postponed under Rule 11.10.

SB 654—A bill to be entitled An act relating to pharmacy practice; creating s. 465.0075, F.S.; authorizing licensure of pharmacists by endorsement and providing requirements therefor, including a fee; providing for legislative review; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 365

Yeas—118

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

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 1867—A bill to be entitled An act relating to health care practitioner regulation; providing legislative intent and findings with respect to the Medical Quality Assurance Trust Fund and function administered by the Department of Health; requiring the Auditor General to do a followup Medical Quality Assurance audit and issue a report to the Legislature; requiring the Department of Health to reimburse the Agency for Health Care Administration for certain costs; requiring the Office of Program Policy Analysis and Government Accountability to study the feasibility of maintaining the Medical Quality Assurance function within a single department and issue a report to the Legislature; amending s. 456.004, F.S.; providing requirements for rules relating to biennial renewal of licenses; amending s. 456.025, F.S.; revising requirements relating to the setting and use of fees for the regulation of health care professions and practitioners, including continuing education fees; providing for an electronic continuing education tracking system; repealing s. 458.31151, F.S.; relating to development of the examination for foreign-trained physicians and the fees therefor; amending s. 457.107, F.S.; for clarification of acupuncture fees; amending s. 483.807, F.S.; relating to clinical laboratory personnel fees; amending s. 456.011, F.S.; requiring board meetings to be conducted through teleconferencing or other technological means except under certain circumstances; amending s. 456.013, F.S.; requiring the department to charge initial license fees; amending s. 456.017, F.S.; providing for administration of national examinations and termination of state-administered written examinations; providing for administration of state-administered practical or clinical examinations if paid for in advance by the examination candidates; providing legislative intent with respect to the use of national examinations and the removal of state-administered examinations as a barrier to licensure; providing for electronic access to and posting of examination scores under certain conditions; providing for the sharing of examinations or examination item banks with certain entities; clarifying circumstances under which candidates may bring a challenge; providing for electronic administration of certain laws and rules examinations; amending s. 456.035, F.S.; providing for electronic notification of a licensee's current mailing address and place of practice; amending s. 456.073, F.S.; authorizing a letter of guidance in lieu of a finding of probable cause under certain conditions; amending s. 456.081, F.S.; providing for the posting of newsletters on the department's website; amending s. 456.072, F.S.; revising and providing grounds for discipline of licensees; revising and providing disciplinary actions;

amending s. 456.079, F.S.; requiring mitigating or aggravating circumstances to be in the final order to be considered in the imposition of penalties; amending ss. 457.109, 458.320, 458.331, 458.345, 458.347, 459.0085, 459.015, 459.022, 460.413, 461.013, 462.14, 463.016, 464.018, 465.008, 465.016, 466.028, 466.037, 467.203, 468.1295, 468.1755, 468.217, 468.365, 468.518, 468.719, 468.811, 478.52, 480.046, 483.825, 483.901, 484.014, 484.056, 486.125, 490.009, and 491.009, F.S.; revising and conforming provisions relating to disciplinary grounds and penalties; amending s. 456.065, F.S.; requiring the unlicensed activity fee to be in addition to all other fees collected from each licensee; amending s. 456.074, F.S.; providing for immediate suspension of license for convictions relating to fraudulent practices; amending s. 464.005, F.S.; providing for future relocation of the headquarters of the Board of Nursing; providing effective dates.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 800269)

Technical Amendment 2—On page 1, line 19,

after the first semicolon insert: requiring the department to set an examination fee and providing requirements therefor;

On page 3, line 16,

after the first semicolon insert: repealing s. 483.827, F.S., relating to administrative penalties applicable to clinical laboratory personnel;

On page 6, lines 17 and 19,
remove from the bill: %

and insert in lieu thereof: *percent*

On page 6, line 25,
remove from the bill: ,

On page 11, line 11,
remove from the bill: Subsections

and insert in lieu thereof: Subsection

On page 18, lines 19-20,
remove from the bill: all of said lines

and insert in lieu thereof: *Notwithstanding any other provision of law, only candidates who fail an examination by less than 10 percent shall be entitled to*

On page 47, line 15,
remove from the bill: Subsection

and insert in lieu thereof: Paragraph (g) of subsection

On page 87, lines 10-15,
remove from the bill: all of said lines

and insert in lieu thereof:

Section 31. Subsections (3) and (4) of section 465.008, Florida Statutes, are amended to read:

465.008 Renewal of license.—

~~(3) Sixty days prior to the end of the biennium the department shall mail a notice of renewal to the last known address of the licensee.~~

(3)~~(4)~~ Any person licensed under this chapter for 50 years or more is exempt from the payment of the renewal or delinquent fee, and the department shall issue a lifetime license to such a person.

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

Representative(s) Farkas offered the following:

(Amendment Bar Code: 390469)

Amendment 3 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. *It is the intent of the Legislature that the Medical Quality Assurance Trust Fund should be administered in a fiscally responsible manner. It is also the intent of the Legislature that the Department of Health reduce expenses wherever possible to ensure that the cost of regulation is reasonable and fair and does not serve as a barrier to licensure in this state. The Legislature adopts findings 1, 2, 4, 5, and 8 and the recommendations of the Auditor General's Medical Quality Assurance Operational Audit Report Number 01-063. In addition, the Legislature adopts recommendations 1, 2, 4, 5, and 7 of the Florida Senate Committee on Fiscal Policy Interim Project Report 2001-016.*

Section 2. *The Auditor General shall conduct a followup audit to the Medical Quality Assurance Operational Audit Report Number 01-063 to determine if the Department of Health has implemented the recommendations of that report. The Auditor General shall complete the followup audit and issue a report to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2002.*

Section 3. *The contract between the Department of Health and the Agency for Health Care Administration pursuant to section 20.43(3), Florida Statutes, is not subject to the provisions of section 216.346, Florida Statutes. The Department of Health shall reimburse the Agency for Health Care Administration for the agency's actual direct costs and the agency's indirect costs incurred as a result of the contract, subject to appropriated funds. The agency shall provide to the department documentation, explanation, and justification of all direct and indirect costs incurred, by budget entity.*

Section 4. *The Office of Program Policy Analysis and Government Accountability shall study the feasibility of maintaining the entire Medical Quality Assurance function, including enforcement, within a single department. The study shall be completed and a report issued to the President of the Senate and the Speaker of the House of Representatives no later than November 30, 2001.*

Section 5. Subsection (1) of section 456.004, Florida Statutes, is amended, and subsection (10) is added to that section, to read:

456.004 Department; powers and duties.—The department, for the professions under its jurisdiction, shall:

(1) Adopt rules establishing a procedure for the biennial renewal of licenses; however, the department may issue up to a 4-year license to selected licensees notwithstanding any other provisions of law to the contrary. *The rules shall specify the expiration dates of licenses and the process for tracking compliance with continuing education requirements, financial responsibility requirements, and any other conditions of renewal set forth in statute or rule.* Fees for such renewal shall not exceed the fee caps for individual professions on an annualized basis as authorized by law.

(10) Set an examination fee that includes all costs to develop, purchase, validate, administer, and defend the examination and is an amount certain to cover all administrative costs plus the actual per-applicant cost of the examination.

Section 6. Section 456.025, Florida Statutes, is amended to read:

456.025 Fees; receipts; disposition.—

(1) It is the intent of the Legislature that all costs of regulating health care professions and practitioners shall be borne solely by licensees and licensure applicants. It is also the intent of the Legislature that fees should be reasonable and not serve as a barrier to licensure. Moreover, it is the intent of the Legislature that the department operate as efficiently as possible and regularly report to the Legislature additional methods to streamline operational costs. Therefore, the boards in consultation with the department, or the department if there is no board, shall, by rule, set renewal fees which:

(a) Shall be based on revenue projections prepared using generally accepted accounting procedures;

(b) Shall be adequate to cover all expenses relating to that board identified in the department's long-range policy plan, as required by s. 456.005;

(c) Shall be reasonable, fair, and not serve as a barrier to licensure;

(d) Shall be based on potential earnings from working under the scope of the license;

(e) Shall be similar to fees imposed on similar licensure types;

(f) Shall not be more than 10 percent greater than the fee imposed for the previous biennium;

(g) Shall not be more than 10 percent greater than the actual cost to regulate that profession for the previous biennium; and

(h) Shall be subject to challenge pursuant to chapter 120.

(2) The chairpersons of the boards and councils listed in s. 20.43(3)(g) shall meet annually at division headquarters to review the long-range policy plan required by s. 456.005 and current and proposed fee schedules. The chairpersons shall make recommendations for any necessary statutory changes relating to fees and fee caps. Such recommendations shall be compiled by the Department of Health and be included in the annual report to the Legislature required by s. 456.026 as well as be included in the long-range policy plan required by s. 456.005.

(2)~~(1)~~ Each board within the jurisdiction of the department, or the department when there is no board, shall determine by rule the amount of license fees for the profession it regulates, based upon long-range estimates prepared by the department of the revenue required to implement laws relating to the regulation of professions by the department and the board. Each board, or the department if there is no board, shall ensure that license fees are adequate to cover all anticipated costs and to maintain a reasonable cash balance, as determined by rule of the agency, with advice of the applicable board. If sufficient action is not taken by a board within 1 year after notification by the department that license fees are projected to be inadequate, the department shall set license fees on behalf of the applicable board to cover anticipated costs and to maintain the required cash balance. The department shall include recommended fee cap increases in its annual report to the Legislature. Further, it is the legislative intent that no regulated profession operate with a negative cash balance. The department may provide by rule for advancing sufficient funds to any profession operating with a negative cash balance. The advancement may be for a period not to exceed 2 consecutive years, and the regulated profession must pay interest. Interest shall be calculated at the current rate earned on investments of a trust fund used by the department to implement this chapter. Interest earned shall be allocated to the various funds in accordance with the allocation of investment earnings during the period of the advance.

(3)~~(2)~~ Each board, or the department if there is no board, may charge a fee not to exceed $25, as determined by rule, for the issuance of a wall certificate pursuant to s. 456.013(2) requested by a licensee who was licensed prior to July 1, 1998, or for the issuance of a duplicate wall certificate requested by any licensee.

(4)~~(3)~~ Each board, or the department if there is no board, may, by rule, assess and collect a one-time fee from each active status licensee and each inactive status licensee in an amount necessary to eliminate a cash deficit or, if there is not a cash deficit, in an amount sufficient to maintain the financial integrity of the professions as required in this section. Not more than one such assessment may be made in any 4-year period without specific legislative authorization.

(5) If the cash balance of the trust fund at the end of any fiscal year exceeds the total appropriation provided for the regulation of the health care professions in the prior fiscal year, the boards, in consultation with the department, may lower the license renewal fees.

(6)~~(4)~~ Each board ~~authorized to approve continuing education providers~~, or the department if there is no board, *shall* ~~may~~ establish, by rule, a fee not to exceed $250 for anyone seeking approval to provide continuing education courses *or programs* and *shall* ~~may~~ establish by rule a biennial renewal fee not to exceed $250 for the renewal of providership of such courses. *The fees collected from continuing education providers shall be used for the purposes of reviewing course provider applications, monitoring the integrity of the courses provided, covering legal expenses incurred as a result of not granting or renewing a providership, and developing and maintaining an electronic continuing education tracking system. The department shall implement an electronic continuing education tracking system for each new biennial renewal cycle for which electronic renewals are implemented after the effective date of this act and shall integrate such system into the licensure and renewal system. All approved continuing education providers shall provide information on course attendance to the department necessary to implement the electronic tracking system. The department shall, by rule, specify the form and procedures by which the information is to be submitted.* ~~This subsection does not apply to continuing education courses or providers approved by the board under chapter 465.~~

(7)~~(5)~~ All moneys collected by the department from fees or fines or from costs awarded to the agency by a court shall be paid into a trust fund used by the department to implement this chapter. The Legislature shall appropriate funds from this trust fund sufficient to carry out this chapter and the provisions of law with respect to professions regulated by the Division of Medical Quality Assurance within the department and the boards. The department may contract with public and private entities to receive and deposit revenue pursuant to this section. The department shall maintain separate accounts in the trust fund used by the department to implement this chapter for every profession within the department. To the maximum extent possible, the department shall directly charge all expenses to the account of each regulated profession. For the purpose of this subsection, direct charge expenses include, but are not limited to, costs for investigations, examinations, and legal services. For expenses that cannot be charged directly, the department shall provide for the proportionate allocation among the accounts of expenses incurred by the department in the performance of its duties with respect to each regulated profession. The regulation by the department of professions, as defined in this chapter, shall be financed solely from revenue collected by it from fees and other charges and deposited in the Medical Quality Assurance Trust Fund, and all such revenue is hereby appropriated to the department. However, it is legislative intent that each profession shall operate within its anticipated fees. The department may not expend funds from the account of a profession to pay for the expenses incurred on behalf of another profession, except that the Board of Nursing must pay for any costs incurred in the regulation of certified nursing assistants. The department shall maintain adequate records to support its allocation of agency expenses. The department shall provide any board with reasonable access to these records upon request. *On or before October 1 of each year,* the department shall provide each board an annual report of revenue and direct and allocated expenses related to the operation of that profession. The board shall use these reports and the department's adopted long-range plan to determine the amount of license fees. A condensed version of this information, with the department's recommendations, shall be included in the annual report to the Legislature prepared under s. 456.026.

(8)~~(6)~~ The department shall provide a condensed management report of budgets, finances, performance statistics, and recommendations to each board at least once a quarter. The department shall identify and include in such presentations any changes, or projected changes, made to the board's budget since the last presentation.

(9)~~(7)~~ If a duplicate license is required or requested by the licensee, the board or, if there is no board, the department may charge a fee as determined by rule not to exceed $25 before issuance of the duplicate license.

(10)~~(8)~~ The department or the appropriate board shall charge a fee not to exceed $25 for the certification of a public record. The fee shall be determined by rule of the department. The department or the

appropriate board shall assess a fee for duplicating a public record as provided in s. 119.07(1)(a) and (b).

Section 7. Subsection (1) of section 457.107, Florida Statutes, is amended to read:

457.107 Renewal of licenses; continuing education.—

(1) The department shall renew a license upon receipt of the renewal application and the *required* fee set by the board by rule, not to exceed $500.

Section 8. *Section 458.31151, Florida Statutes, is repealed.*

Section 9. Subsection (1) of section 483.807, Florida Statutes, is amended to read:

483.807 Fees; establishment; disposition.—

(1) The board, by rule, shall establish fees to be paid for application, examination, reexamination, licensing and renewal, *registration, laboratory training program application,* reinstatement, and recordmaking and recordkeeping. The board may also establish, by rule, a delinquency fee. The board shall establish fees that are adequate to ensure the continued operation of the board and to fund the proportionate expenses incurred by the department in carrying out its licensure and other related responsibilities under this part. Fees shall be based on departmental estimates of the revenue required to implement this part and the provisions of law with respect to the regulation of clinical laboratory personnel.

Section 10. Subsections (1), (3), and (4) of section 456.011, Florida Statutes, are amended to read:

456.011 Boards; organization; meetings; compensation and travel expenses.—

(1) Each board within the department shall comply with the provisions of this *chapter* ~~section~~.

(3) The board shall meet at least once annually and may meet as often as is necessary. *Meetings shall be conducted through teleconferencing or other technological means, unless disciplinary hearings involving standard of care, sexual misconduct, fraud, impairment, or felony convictions; licensure denial hearings; or controversial rule hearings are being conducted; or unless otherwise approved in advance of the meeting by the director of the Division of Medical Quality Assurance.* The chairperson or a quorum of the board shall have the authority to call ~~other~~ meetings*, except as provided above relating to in-person meetings*. A quorum shall be necessary for the conduct of official business by the board or any committee thereof. Unless otherwise provided by law, 51 percent or more of the appointed members of the board or any committee, when applicable, shall constitute a quorum. The membership of committees of the board, except as otherwise authorized pursuant to this chapter or the applicable practice act, shall be composed of currently appointed members of the board. The vote of a majority of the members of the quorum shall be necessary for any official action by the board or committee. Three consecutive unexcused absences or absences constituting 50 percent or more of the board's meetings within any 12-month period shall cause the board membership of the member in question to become void, and the position shall be considered vacant. The board, or the department when there is no board, shall, by rule, define unexcused absences.

(4) Unless otherwise provided by law, a board member or former board member serving on a probable cause panel shall be compensated $50 for each day in attendance at an official meeting of the board and for each day of participation in any other business involving the board. Each board shall adopt rules defining the phrase "other business involving the board," but the phrase may not routinely be defined to include telephone conference calls *that last less than 4 hours*. A board member also shall be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of state shall require the prior approval of the secretary.

Section 11. Subsection (2) of section 456.013, Florida Statutes, is amended to read:

456.013 Department; general licensing provisions.—

(2) Before the issuance of any license, the department *shall* ~~may~~ charge an initial license fee as determined by ~~rule of~~ the applicable board or, if no such board exists, by rule of the department. Upon receipt of the appropriate license fee, the department shall issue a license to any person certified by the appropriate board, or its designee, as having met the licensure requirements imposed by law or rule. The license shall consist of a wallet-size identification card and a wall card measuring 6½ inches by 5 inches. In addition to the two-part license, the department, at the time of initial licensure, shall issue a wall certificate suitable for conspicuous display, which shall be no smaller than 8½ inches by 14 inches. The licensee shall surrender to the department the wallet-size identification card, the wall card, and the wall certificate, if one has been issued by the department, if the licensee's license is revoked.

Section 12. Section 456.017, Florida Statutes, is amended to read:

456.017 Department of Health; examinations.—

(1)(a) The department shall provide, contract, or approve services for the development, preparation, administration, scoring, score reporting, and evaluation of all examinations, in consultation with the appropriate board. The department shall certify that examinations developed and approved by the department adequately and reliably measure an applicant's ability to practice the profession regulated by the department. After an examination developed or approved by the department has been administered, the board, or the department when there is no board, may reject any question which does not reliably measure the general areas of competency specified in the rules of the board. The department may contract for the preparation, administration, scoring, score reporting, and evaluation of examinations, when such services are available and approved by the board.

(b) For each examination developed by the department or contracted vendor, to the extent not otherwise specified by statute, the board, or the department when there is no board, shall by rule specify the general areas of competency to be covered by each examination, the relative weight to be assigned in grading each area tested, and the score necessary to achieve a passing grade. *The department shall assess*~~, and~~ fees~~, where applicable,~~ to cover the actual cost for any purchase, development, *validation,* ~~and~~ administration*, and defense* of required examinations. This subsection does not apply to national examinations approved and administered pursuant to paragraph (c). If a practical examination is deemed to be necessary, the rules shall specify the criteria by which examiners are to be selected, the grading criteria to be used by the examiner, the relative weight to be assigned in grading each criterion, and the score necessary to achieve a passing grade. When a mandatory standardization exercise for a practical examination is required by law, the board, or the department when there is no board, may conduct such exercise. Therefore, board members, or employees of the department when there is no board, may serve as examiners at a practical examination with the consent of the board or department, as appropriate.

(c)*1.* The board, or the department when there is no board, *shall* ~~may~~ approve by rule the use of *one or more* ~~any~~ national *examinations* ~~examination~~ which the department has certified as meeting requirements of national examinations and generally accepted testing standards pursuant to department rules. Providers of examinations seeking certification by the department shall pay the actual costs incurred by the department in making a determination regarding the certification. The name and number of a candidate may be provided to a national contractor for the limited purpose of preparing the grade tape and information to be returned to the board or department; or, to the extent otherwise specified by rule, the candidate may apply directly to the vendor of the national examination and supply test score information to the department. The department may delegate to the board the duty to provide and administer the examination. Any national examination approved by a board, or the department when there is no

board, prior to October 1, 1997, is deemed certified under this paragraph.

2. The board, or the department when there is no board, shall approve and begin administering a national examination no later than December 31, 2001. Neither the board nor the department may administer a state-developed written examination after December 31, 2001, notwithstanding any other provision of law. The examination may be administered electronically if adequate security measures are used, as determined by rule of the department.

3. The board, or the department when there is no board, may administer a state-developed practical or clinical examination, as required by the applicable practice act, if all costs of development, purchase, validation, administration, review, and defense are paid by the examination candidate prior to the administration of the examination. If a national practical or clinical examination is available and certified by the department pursuant to this section, the board, or the department when there is no board, may administer the national examination.

4. It is the intent of the Legislature to reduce the costs associated with state examinations and to encourage the use of national examinations whenever possible.

(d) Each board, or the department when there is no board, shall adopt rules regarding the security and monitoring of examinations. The department shall implement those rules adopted by the respective boards. In order to maintain the security of examinations, the department may employ the procedures set forth in s. 456.065 to seek fines and injunctive relief against an examinee who violates the provisions of s. 456.018 or the rules adopted pursuant to this paragraph. The department, or any agent thereof, may, for the purposes of investigation, confiscate any written, photographic, or recording material or device in the possession of the examinee at the examination site which the department deems necessary to enforce such provisions or rules. *The scores of candidates who have taken state-developed examinations shall be provided to the candidates electronically using a candidate identification number, and the department shall post the aggregate scores on the department's website without identifying the names of the candidates.*

(e) If the professional board with jurisdiction over an examination concurs, the department may, for a fee, share with any other state's licensing authority *or a national testing entity* an examination *or examination item bank* developed by or for the department unless prohibited by a contract entered into by the department for development or purchase of the examination. The department, with the concurrence of the appropriate board, shall establish guidelines that ensure security of a shared exam and shall require that any other state's licensing authority comply with those guidelines. Those guidelines shall be approved by the appropriate professional board. All fees paid by the user shall be applied to the department's examination and development program for professions regulated by this chapter.

(f) The department may adopt rules necessary to administer this subsection.

(2) For each examination developed by the department or a contracted vendor, the board, or the department when there is no board, shall adopt rules providing for reexamination of any applicants who failed an examination developed by the department or a contracted vendor. If both a written and a practical examination are given, an applicant shall be required to retake only the portion of the examination on which the applicant failed to achieve a passing grade, if the applicant successfully passes that portion within a reasonable time, as determined by rule of the board, or the department when there is no board, of passing the other portion. Except for national examinations approved and administered pursuant to this section, the department shall provide procedures for applicants who fail an examination developed by the department or a contracted vendor to review their examination questions, answers, papers, grades, and grading key for the questions the candidate answered incorrectly or, if not feasible, the parts of the examination failed. Applicants shall bear the actual cost for the department to provide examination review pursuant to this subsection. An applicant may waive in writing the confidentiality of the applicant's examination grades. *Notwithstanding any other provision of law, only candidates who fail an examination by less than 10 percent shall be entitled to challenge the validity of the examination at hearing.*

(3) For each examination developed or administered by the department or a contracted vendor, an accurate record of each applicant's examination questions, answers, papers, grades, and grading key shall be kept for a period of not less than 2 years immediately following the examination, and such record shall thereafter be maintained or destroyed as provided in chapters 119 and 257. This subsection does not apply to national examinations approved and administered pursuant to this section.

(4) Meetings of any member of the department or of any board within the department held for the exclusive purpose of creating or reviewing licensure examination questions or proposed examination questions are exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution. Any public records, such as tape recordings, minutes, or notes, generated during or as a result of such meetings are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, these exemptions shall not affect the right of any person to review an examination as provided in subsection (2).

(5) For examinations developed by the department or a contracted vendor, each board, or the department when there is no board, may provide licensure examinations in an applicant's native language. *Notwithstanding any other provision of law,* applicants for examination or reexamination pursuant to this subsection shall bear the full cost for the department's development, preparation, *validation,* administration, grading, and evaluation of any examination in a language other than English *prior to the examination being administered*. Requests for translated examinations must be on file in the board office at least 6 months prior to the scheduled examination. When determining whether it is in the public interest to allow the examination to be translated into a language other than English, the board shall consider the percentage of the population who speak the applicant's native language. Applicants must apply for translation to the applicable board at least 6 months prior to the scheduled examination.

(6) In addition to meeting any other requirements for licensure by examination or by endorsement, *and notwithstanding the provisions in paragraph (1)(c),* an applicant may be required by a board, or the department when there is no board, to certify competency in state laws and rules relating to the applicable practice act. *Beginning October 1, 2001, all laws and rules examinations shall be administered electronically unless the laws and rules examination is administered concurrently with another written examination for that profession or unless the electronic administration would be substantially more expensive.*

Section 13. Subsection (1) of section 456.035, Florida Statutes, is amended to read:

456.035 Address of record.—

(1) Each licensee of the department is solely responsible for notifying the department in writing of the licensee's current mailing address and place of practice, as defined by rule of the board or the department if there is no board. *Electronic notification shall be allowed by the department; however, it shall be the responsibility of the licensee to ensure that the electronic notification was received by the department.* A licensee's failure to notify the department of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board or the department if there is no board.

Section 14. Subsections (2), (4), and (10) of section 456.073, Florida Statutes, are amended to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(2) The department shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. For purposes of this section,

it is the intent of the Legislature that the term "expeditiously" means that the department complete the report of its initial investigative findings and recommendations concerning the existence of probable cause within 6 months after its receipt of the complaint. The failure of the department, for disciplinary cases under its jurisdiction, to comply with the time limits of this section while investigating a complaint against a licensee constitutes harmless error in any subsequent disciplinary action unless a court finds that either the fairness of the proceeding or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure. When its investigation is complete and legally sufficient, the department shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department. The report shall contain the investigative findings and the recommendations of the department concerning the existence of probable cause. *The department shall not recommend a letter of guidance in lieu of finding probable cause if the subject has already been issued a letter of guidance for a related offense.* At any time after legal sufficiency is found, the department may dismiss any case, or any part thereof, if the department determines that there is insufficient evidence to support the prosecution of allegations contained therein. The department shall provide a detailed report to the appropriate probable cause panel prior to dismissal of any case or part thereof, and to the subject of the complaint after dismissal of any case or part thereof, under this section. For cases dismissed prior to a finding of probable cause, such report is confidential and exempt from s. 119.07(1). The probable cause panel shall have access, upon request, to the investigative files pertaining to a case prior to dismissal of such case. If the department dismisses a case, the probable cause panel may retain independent legal counsel, employ investigators, and continue the investigation and prosecution of the case as it deems necessary.

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department, as appropriate. Each regulatory board shall provide by rule that the determination of probable cause shall be made by a panel of its members or by the department. Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, is willing to serve, and is authorized to do so by the board chair. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profession. All proceedings of the panel are exempt from s. 286.011 until 10 days after probable cause has been found to exist by the panel or until the subject of the investigation waives his or her privilege of confidentiality. The probable cause panel may make a reasonable request, and upon such request the department shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department or the agency. The probable cause panel or the department, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department. The secretary may grant extensions of the 15-day and the 30-day time limits. In lieu of a finding of probable cause, the probable cause panel, or the department if there is no board, may issue a letter of guidance to the subject. If, within the 30-day time limit, as may be extended, the probable cause panel does not make a determination regarding the existence of probable cause or does not issue a letter of guidance in lieu of a finding of probable cause, the department must make a determination regarding the existence of probable cause within 10 days after the expiration of the time limit. If the probable cause panel finds that probable cause exists, it shall direct the department to file a formal complaint against the licensee. The department shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department shall file a formal complaint against the subject of the investigation and prosecute that complaint pursuant to chapter 120. However, the department may decide not to prosecute the complaint if it finds that probable cause has been improvidently found by the panel. In such cases, the department shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to chapter 120. The department shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department within 1 year after the filing of a complaint. The department, for disciplinary cases under its jurisdiction, must establish a uniform reporting system to quarterly refer to each board the status of any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. Annually, the department*, in consultation with the applicable probable cause panel,* ~~if there is no board, or each board~~ must establish a plan to *expedite* ~~reduce~~ or otherwise close any investigation or disciplinary proceeding that is not before the Division of Administrative Hearings or otherwise completed by the department within 1 year after the filing of the complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from a trust fund used by the department to implement this chapter. All proceedings of the probable cause panel are exempt from s. 120.525.

(10) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. Upon completion of the investigation *and a recommendation by the department to find probable cause,* and pursuant to a written request by the subject *or the subject's attorney*, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days *of mailing by the department*, unless an extension of time has been granted by the department. This subsection does not prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency.

Section 15. Section 456.081, Florida Statutes, is amended to read:

456.081 Publication of information.—The department and the boards shall have the authority to advise licensees periodically, through the publication of a newsletter *on the department's website*, about information that the department or the board determines is of interest to the industry. Unless otherwise prohibited by law, the department and the boards shall publish a summary of final orders resulting in *disciplinary action* ~~fines, suspensions, or revocations,~~ and any other information the department or the board determines is of interest to the public.

Section 16. Subsection (3) of section 456.079, Florida Statutes, is amended to read:

456.079 Disciplinary guidelines.—

(3) A specific finding *in the final order* of mitigating or aggravating circumstances shall allow the board to impose a penalty other than that provided for in such guidelines. If applicable, the board, or the department if there is no board, shall adopt by rule disciplinary guidelines to designate possible mitigating and aggravating circumstances and the variation and range of penalties permitted for such circumstances.

Section 17. Subsections (1) and (2) of section 457.109, Florida Statutes, are amended to read:

457.109 Disciplinary actions; grounds; action by the board.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice acupuncture by bribery, by fraudulent misrepresentations, or through an error of the department.

(b) Having a license to practice acupuncture revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, in any jurisdiction of a crime which directly relates to the practice of acupuncture or to the ability to practice acupuncture. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising or advertising which claims that acupuncture is useful in curing any disease.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department.

(g) Aiding, assisting, procuring, employing, or advising any unlicensed person to practice acupuncture contrary to this chapter or to a rule of the department.

(h) Failing to perform any statutory or legal obligation placed upon a licensed acupuncturist.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed acupuncturist.

(j) Exercising influence within a patient-acupuncturist relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her acupuncturist.

(k) Making deceptive, untrue, or fraudulent representations in the practice of acupuncture or employing a trick or scheme in the practice of acupuncture when such scheme or trick fails to conform to the generally prevailing standards of treatment in the community.

(l) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient.

(m) Failing to keep written medical records justifying the course of treatment of the patient.

(n) Exercising influence on the patient to exploit the patient for the financial gain of the licensee or of a third party.

(o) Being unable to practice acupuncture with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to serve as an acupuncturist due to the reasons stated in this paragraph, the department shall have the authority to issue an order to compel the licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as an acupuncturist. The licensee against whom the petition is filed shall not be named or identified by initials in any public court record or document, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. An acupuncturist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of acupuncture with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the department shall be used against an acupuncturist in any other proceeding.

(p) Gross or repeated malpractice or the failure to practice acupuncture with that level of care, skill, and treatment which is recognized by a reasonably prudent similar acupuncturist as being acceptable under similar conditions and circumstances.

(q) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(r) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(s) Violating ~~any provision of this chapter, a rule of the department, or~~ a lawful order of the *board* ~~department~~ previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(t) Conspiring with another to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(u) Fraud or deceit or gross negligence, incompetence, or misconduct in the operation of a course of study.

(v) Failing to comply with state, county, or municipal regulations or reporting requirements relating to public health and the control of contagious and infectious diseases.

(w) Failing to comply with any rule of the board relating to health and safety, including, but not limited to, the sterilization of needles and equipment and the disposal of potentially infectious materials.

(x) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the acts set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placement of the acupuncturist on probation for a period of time and subject to such conditions as the board may specify.~~

Section 18. Subsection (6) of section 458.320, Florida Statutes, is amended to read:

458.320 Financial responsibility.—

(6) Any deceptive, untrue, or fraudulent representation by the licensee with respect to any provision of this section shall result in

permanent disqualification from any exemption to mandated financial responsibility as provided in this section and shall constitute grounds for disciplinary action *under* ~~as specified in~~ s. 458.331.

Section 19. Subsections (1) and (2) of section 458.331, Florida Statutes, are amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license or the authority to practice medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the physician's license, shall be construed as action against the physician's license.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of medicine or to the ability to practice medicine.

(d) False, deceptive, or misleading advertising.

(e) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department or the board. A treatment provider approved pursuant to s. 456.076 shall provide the department or consultant with information in accordance with the requirements of s. 456.076(3), (4), (5), and (6).

(f) Aiding, assisting, procuring, or advising any unlicensed person to practice medicine contrary to this chapter or to a rule of the department or the board.

(g) Failing to perform any statutory or legal obligation placed upon a licensed physician.

(h) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed physician.

(i) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent a physician from receiving a fee for professional consultation services.

(j) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

(k) Making deceptive, untrue, or fraudulent representations in or related to the practice of medicine or employing a trick or scheme in the practice of medicine.

(l) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient.

(m) Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed physician or the physician extender and supervising physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

(n) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances, or drugs.

(o) Promoting or advertising on any prescription form of a community pharmacy unless the form shall also state "This prescription may be filled at any pharmacy of your choice."

(p) Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative, except as provided in s. 743.064, s. 766.103, or s. 768.13.

(q) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.

(r) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the physician to himself or herself, except one prescribed, dispensed, or administered to the physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

(s) Being unable to practice medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice medicine because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed may not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients.

(t) Gross or repeated malpractice or the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. As used in this paragraph, "repeated malpractice" includes, but is not limited to, three or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of $25,000 each to the claimant in a judgment or settlement and which incidents involved negligent conduct by the physician. As used in this paragraph, "gross malpractice" or "the failure to practice medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances," shall not be construed so as to require more than one instance, event, or act. Nothing in this paragraph shall be construed to

require that a physician be incompetent to practice medicine in order to be disciplined pursuant to this paragraph.

(u) Performing any procedure or prescribing any therapy which, by the prevailing standards of medical practice in the community, would constitute experimentation on a human subject, without first obtaining full, informed, and written consent.

(v) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform. The board may establish by rule standards of practice and standards of care for particular practice settings, including, but not limited to, education and training, equipment and supplies, medications including anesthetics, assistance of and delegation to other personnel, transfer agreements, sterilization, records, performance of complex or multiple procedures, informed consent, and policy and procedure manuals.

(w) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(x) Violating ~~any provision of this chapter, a rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(z) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.

(aa) Presigning blank prescription forms.

(bb) Prescribing any medicinal drug appearing on Schedule II in chapter 893 by the physician for office use.

(cc) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or a Schedule II sympathomimetic amine drug or any compound thereof, pursuant to chapter 893, to or for any person except for:

1. The treatment of narcolepsy; hyperkinesis; behavioral syndrome characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction;

2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or

3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

(dd) Failing to supervise adequately the activities of those physician assistants, paramedics, emergency medical technicians, or advanced registered nurse practitioners acting under the supervision of the physician.

(ee) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(ff) Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

(gg) Misrepresenting or concealing a material fact at any time during any phase of a licensing or disciplinary process or procedure.

(hh) Improperly interfering with an investigation or with any disciplinary proceeding.

(ii) Failing to report to the department any licensee under this chapter or under chapter 459 who the physician or physician assistant knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the physician or physician assistant also provides services.

(jj) Being found by any court in this state to have provided corroborating written medical expert opinion attached to any statutorily required notice of claim or intent or to any statutorily required response rejecting a claim, without reasonable investigation.

(kk) Failing to report to the board, in writing, within 30 days if action as defined in paragraph (b) has been taken against one's license to practice medicine in another state, territory, or country.

(ll) Advertising or holding oneself out as a board-certified specialist, if not qualified under s. 458.3312, in violation of this chapter.

(mm) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(nn) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), including conduct that would constitute a substantial violation of subsection (1) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify, or certification with restrictions, to the department an application for licensure, certification, or registration.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placement of the physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another physician.~~

~~(g) Issuance of a letter of concern.~~

~~(h) Corrective action.~~

~~(i) Refund of fees billed to and collected from the patient.~~

~~(j) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.~~

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the physician. All costs associated with compliance with orders issued under this subsection are the obligation of the physician.

Section 20. Subsection (2) of section 458.345, Florida Statutes, is amended to read:

458.345 Registration of resident physicians, interns, and fellows; list of hospital employees; prescribing of medicinal drugs; penalty.—

(2) The board shall not certify to the department for registration any applicant who is under investigation in any state or jurisdiction for an act which would constitute *grounds* ~~the basis~~ for ~~imposing a~~ disciplinary *action under* ~~penalty specified in~~ s. 458.331~~(2)(b)~~ until such time as the investigation is completed, at which time the provisions of s. 458.331 shall apply.

Section 21. Paragraph (g) of subsection (7) of section 458.347, Florida Statutes, is amended to read:

458.347 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(g) The Board of Medicine may impose any of the penalties *authorized under* ~~specified in~~ ss. 456.072 and 458.331(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 456.

Section 22. Subsection (6) of section 459.0085, Florida Statutes, is amended to read:

459.0085 Financial responsibility.—

(6) Any deceptive, untrue, or fraudulent representation by the licensee with respect to any provision of this section shall result in permanent disqualification from any exemption to mandated financial responsibility as provided in this section and shall constitute grounds for disciplinary action *under* ~~as specified in~~ s. 459.015.

Section 23. Subsections (1) and (2) of section 459.015, Florida Statutes, are amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice osteopathic medicine or a certificate issued under this chapter by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license or the authority to practice osteopathic medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions. The licensing authority's acceptance of a physician's relinquishment of license, stipulation, consent order, or other settlement offered in response to or in anticipation of the filing of administrative charges against the physician shall be construed as action against the physician's license.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of osteopathic medicine or to the ability to practice osteopathic medicine. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges.

(d) False, deceptive, or misleading advertising.

(e) Failing to report to the department or the department's impaired professional consultant any person who the licensee or certificateholder knows is in violation of this chapter or of the rules of the department or the board. A treatment provider, approved pursuant to s. 456.076, shall provide the department or consultant with information in accordance with the requirements of s. 456.076(3), (4), (5), and (6).

(f) Aiding, assisting, procuring, or advising any unlicensed person to practice osteopathic medicine contrary to this chapter or to a rule of the department or the board.

(g) Failing to perform any statutory or legal obligation placed upon a licensed osteopathic physician.

(h) Giving false testimony in the course of any legal or administrative proceedings relating to the practice of medicine or the delivery of health care services.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed osteopathic physician.

(j) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, person, partnership, firm, corporation, or other business entity, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent an osteopathic physician from receiving a fee for professional consultation services.

(k) Refusing to provide health care based on a patient's participation in pending or past litigation or participation in any disciplinary action conducted pursuant to this chapter, unless such litigation or disciplinary action directly involves the osteopathic physician requested to provide services.

(l) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with his or her physician.

(m) Making deceptive, untrue, or fraudulent representations in or related to the practice of osteopathic medicine or employing a trick or scheme in the practice of osteopathic medicine.

(n) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or forms of overreaching or vexatious conduct. A solicitation is any communication which directly or implicitly requests an immediate oral response from the recipient.

(o) Failing to keep legible, as defined by department rule in consultation with the board, medical records that identify the licensed osteopathic physician or the osteopathic physician extender and supervising osteopathic physician by name and professional title who is or are responsible for rendering, ordering, supervising, or billing for each diagnostic or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories; examination results; test results; records of drugs prescribed, dispensed, or administered; and reports of consultations and hospitalizations.

(p) Fraudulently altering or destroying records relating to patient care or treatment, including, but not limited to, patient histories, examination results, and test results.

(q) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, appliances, or drugs.

(r) Promoting or advertising on any prescription form of a community pharmacy, unless the form shall also state "This prescription may be filled at any pharmacy of your choice."

(s) Performing professional services which have not been duly authorized by the patient or client or his or her legal representative except as provided in s. 743.064, s. 766.103, or s. 768.13.

(t) Prescribing, dispensing, administering, supplying, selling, giving, mixing, or otherwise preparing a legend drug, including all controlled substances, other than in the course of the osteopathic physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, supplying, selling, giving, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or

inappropriate quantities is not in the best interest of the patient and is not in the course of the osteopathic physician's professional practice, without regard to his or her intent.

(u) Prescribing or dispensing any medicinal drug appearing on any schedule set forth in chapter 893 by the osteopathic physician for himself or herself or administering any such drug by the osteopathic physician to himself or herself unless such drug is prescribed for the osteopathic physician by another practitioner authorized to prescribe medicinal drugs.

(v) Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

(w) Being unable to practice osteopathic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice medicine because of the reasons stated in this paragraph, have the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients.

(x) Gross or repeated malpractice or the failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar osteopathic physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the provisions of s. 766.102 when enforcing this paragraph. As used in this paragraph, "repeated malpractice" includes, but is not limited to, three or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of $25,000 each to the claimant in a judgment or settlement and which incidents involved negligent conduct by the osteopathic physician. As used in this paragraph, "gross malpractice" or "the failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar osteopathic physician as being acceptable under similar conditions and circumstances" shall not be construed so as to require more than one instance, event, or act. Nothing in this paragraph shall be construed to require that an osteopathic physician be incompetent to practice osteopathic medicine in order to be disciplined pursuant to this paragraph. A recommended order by an administrative law judge or a final order of the board finding a violation under this paragraph shall specify whether the licensee was found to have committed "gross malpractice," "repeated malpractice," or "failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized as being acceptable under similar conditions and circumstances," or any combination thereof, and any publication by the board shall so specify.

(y) Performing any procedure or prescribing any therapy which, by the prevailing standards of medical practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(z) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform. The board may establish by rule standards of practice and standards of care for particular practice settings, including, but not limited to, education and training, equipment and supplies, medications including anesthetics, assistance of and delegation to other personnel, transfer agreements, sterilization, records, performance of complex or multiple procedures, informed consent, and policy and procedure manuals.

(aa) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(bb) Violating ~~any provision of this chapter, a rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the board or department.

(cc) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(dd) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.

(ee) Presigning blank prescription forms.

(ff) Prescribing any medicinal drug appearing on Schedule II in chapter 893 by the osteopathic physician for office use.

(gg) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or Schedule II sympathomimetic amine drug or any compound thereof, pursuant to chapter 893, to or for any person except for:

1. The treatment of narcolepsy; hyperkinesis; behavioral syndrome characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction;

2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities; or

3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the board before such investigation is begun.

(hh) Failing to supervise adequately the activities of those physician assistants, paramedics, emergency medical technicians, advanced registered nurse practitioners, or other persons acting under the supervision of the osteopathic physician.

(ii) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(jj) Misrepresenting or concealing a material fact at any time during any phase of a licensing or disciplinary process or procedure.

(kk) Improperly interfering with an investigation or with any disciplinary proceeding.

(ll) Failing to report to the department any licensee under chapter 458 or under this chapter who the osteopathic physician or physician assistant knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the osteopathic physician or physician assistant also provides services.

(mm) Being found by any court in this state to have provided corroborating written medical expert opinion attached to any statutorily required notice of claim or intent or to any statutorily required response rejecting a claim, without reasonable investigation.

(nn) Advertising or holding oneself out as a board-certified specialist in violation of this chapter.

(oo) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(pp) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify, or certify with restrictions, to the department an application for certification, licensure, renewal, or reactivation.~~

~~(b) Revocation or suspension of a license or certificate.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Issuance of a letter of concern.~~

~~(g) Placement of the osteopathic physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the osteopathic physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another osteopathic physician.~~

~~(h) Corrective action.~~

~~(i) Refund of fees billed to and collected from the patient.~~

~~(j) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.~~

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the physician. All costs associated with compliance with orders issued under this subsection are the obligation of the physician.

Section 24. Paragraph (f) of subsection (7) of section 459.022, Florida Statutes, is amended to read:

459.022 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(f) The Board of Osteopathic Medicine may impose any of the penalties *authorized under* ~~specified in~~ ss. 456.072 and 459.015(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 456.

Section 25. Subsections (1) and (2) of section 460.413, Florida Statutes, are amended to read:

460.413 Grounds for disciplinary action; action by board or department.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice chiropractic medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license to practice chiropractic medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of chiropractic medicine or to the ability to practice chiropractic medicine. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Causing to be advertised, by any means whatsoever, any advertisement which does not contain an assertion or statement which would identify herself or himself as a chiropractic physician or identify such chiropractic clinic or related institution in which she or he practices or in which she or he is owner, in whole or in part, as a chiropractic institution.

(f) Advertising, practicing, or attempting to practice under a name other than one's own.

(g) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department or the board.

(h) Aiding, assisting, procuring, or advising any unlicensed person to practice chiropractic medicine contrary to this chapter or to a rule of the department or the board.

(i) Failing to perform any statutory or legal obligation placed upon a licensed chiropractic physician.

(j) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity of a licensed chiropractic physician.

(k) Making misleading, deceptive, untrue, or fraudulent representations in the practice of chiropractic medicine or employing a trick or scheme in the practice of chiropractic medicine when such trick or scheme fails to conform to the generally prevailing standards of treatment in the chiropractic medical community.

(l) Soliciting patients either personally or through an agent, unless such solicitation falls into a category of solicitations approved by rule of the board.

(m) Failing to keep legibly written chiropractic medical records that identify clearly by name and credentials the licensed chiropractic physician rendering, ordering, supervising, or billing for each examination or treatment procedure and that justify the course of treatment of the patient, including, but not limited to, patient histories, examination results, test results, X rays, and diagnosis of a disease, condition, or injury. X rays need not be retained for more than 4 years.

(n) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods or appliances, or drugs.

(o) Performing professional services which have not been duly authorized by the patient or client or her or his legal representative except as provided in ss. 743.064, 766.103, and 768.13.

(p) Prescribing, dispensing, or administering any medicinal drug except as authorized by s. 460.403(9)(c)2., performing any surgery, or practicing obstetrics.

(q) Being unable to practice chiropractic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding by the secretary of the department, or his or her designee, or the probable cause panel of the board that probable cause exists to believe

that the licensee is unable to practice the profession because of reasons stated in this paragraph, the department shall have the authority to compel a licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with the department's order, the department may file a petition for enforcement in the circuit court of the circuit in which the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. The record of proceedings to obtain a compelled mental or physical examination shall not be used against a licensee in any other proceedings. A chiropractic physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of chiropractic medicine with reasonable skill and safety to patients.

(r) Gross or repeated malpractice or the failure to practice chiropractic medicine at a level of care, skill, and treatment which is recognized by a reasonably prudent chiropractic physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the standards for malpractice in s. 766.102 in interpreting this provision. A recommended order by an administrative law judge, or a final order of the board finding a violation under this section shall specify whether the licensee was found to have committed "gross malpractice," "repeated malpractice," or "failure to practice chiropractic medicine with that level of care, skill, and treatment which is recognized as being acceptable under similar conditions and circumstances" or any combination thereof, and any publication by the board shall so specify.

(s) Performing any procedure or prescribing any therapy which, by the prevailing standards of chiropractic medical practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(t) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(u) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(v) Violating ~~any provision of this chapter, any rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(w) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(x) Submitting to any third-party payor a claim for a service or treatment which was not actually provided to a patient.

(y) Failing to preserve identity of funds and property of a patient. As provided by rule of the board, money or other property entrusted to a chiropractic physician for a specific purpose, including advances for costs and expenses of examination or treatment, is to be held in trust and must be applied only to that purpose. Money and other property of patients coming into the hands of a chiropractic physician are not subject to counterclaim or setoff for chiropractic physician's fees, and a refusal to account for and deliver over such money and property upon demand shall be deemed a conversion. This is not to preclude the retention of money or other property upon which the chiropractic physician has a valid lien for services or to preclude the payment of agreed fees from the proceeds of transactions for examinations or treatments. Controversies as to the amount of the fees are not grounds for disciplinary proceedings unless the amount demanded is clearly excessive or extortionate, or the demand is fraudulent. All funds of patients paid to a chiropractic physician, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts maintained in the state in which the chiropractic physician's office is situated, and no funds belonging to the chiropractic physician shall be deposited therein except as follows:

1. Funds reasonably sufficient to pay bank charges may be deposited therein.

2. Funds belonging in part to a patient and in part presently or potentially to the physician must be deposited therein, but the portion belonging to the physician may be withdrawn when due unless the right of the physician to receive it is disputed by the patient, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

Every chiropractic physician shall maintain complete records of all funds, securities, and other properties of a patient coming into the possession of the physician and render appropriate accounts to the patient regarding them. In addition, every chiropractic physician shall promptly pay or deliver to the patient, as requested by the patient, the funds, securities, or other properties in the possession of the physician which the patient is entitled to receive.

(z) Offering to accept or accepting payment for services rendered by assignment from any third-party payor after offering to accept or accepting whatever the third-party payor covers as payment in full, if the effect of the offering or acceptance is to eliminate or give the impression of eliminating the need for payment by an insured of any required deductions applicable in the policy of the insured.

(aa) Failing to provide, upon request of the insured, a copy of a claim submitted to any third-party payor for service or treatment of the insured.

(bb) Advertising a fee or charge for a service or treatment which is different from the fee or charge the licensee submits to third-party payors for that service or treatment.

(cc) Advertising any reduced or discounted fees for services or treatments, or advertising any free services or treatments, without prominently stating in the advertisement the usual fee of the licensee for the service or treatment which is the subject of the discount, rebate, or free offering.

(dd) Using acupuncture without being certified pursuant to s. 460.403(9)(f).

(ee) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the chiropractic physician or chiropractic physician's assistant knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the chiropractic physician or chiropractic physician's assistant also provides services.

(ff) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placement of the chiropractic physician on probation for a period of time and subject to such conditions as the board may specify, including requiring the chiropractic physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another chiropractic physician.~~

~~(g) Imposition of costs of the investigation and prosecution.~~

~~(h) Requirement that the chiropractic physician undergo remedial education.~~

~~(i) Issuance of a letter of concern.~~

~~(j) Corrective action.~~

~~(k) Refund of fees billed to and collected from the patient or a third party.~~

In determining what action is appropriate, the board must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the chiropractic physician. All costs associated with compliance with orders issued under this subsection are the obligation of the chiropractic physician.

Section 26. Subsections (1) and (2) of section 461.013, Florida Statutes, are amended to read:

461.013 Grounds for disciplinary action; action by the board; investigations by department.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice podiatric medicine by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license to practice podiatric medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of podiatric medicine or to the ability to practice podiatric medicine. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department or the board.

(g) Aiding, assisting, procuring, permitting, or advising any unlicensed person to practice podiatric medicine contrary to this chapter or to rule of the department or the board.

(h) Failing to perform any statutory or legal obligation placed upon a licensed podiatric physician.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such report or records shall include only those which are signed in the capacity of a licensed podiatric physician.

(j) Making misleading, deceptive, untrue, or fraudulent representations in the practice of podiatric medicine or employing a trick or scheme in the practice of podiatric medicine when such scheme or trick fails to conform to the generally prevailing standards of treatment in the podiatric community.

(k) Soliciting patients either personally or through an agent, unless such solicitation falls into a category of solicitations approved by rule of the board.

(l) Failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, and test results.

(m) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which shall include, but not be limited to, the promotion or sale of services, goods, appliances, or drugs and the promoting or advertising on any prescription form of a community pharmacy unless the form shall also state "This prescription may be filled at any pharmacy of your choice."

(n) Performing professional services which have not been duly authorized by the patient or client or her or his legal representative except as provided in ss. 743.064, 766.103, and 768.13.

(o) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including all controlled substances, other than in the course of the podiatric physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the podiatric physician's professional practice, without regard to her or his intent.

(p) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the podiatric physician to herself or himself except those prescribed, dispensed, or administered to the podiatric physician by another practitioner authorized to prescribe, dispense, or administer them.

(q) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any amphetamine or sympathomimetic amine drug or compound designated as a Schedule II controlled substance pursuant to chapter 893.

(r) Being unable to practice podiatric medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph the department shall, upon probable cause, have authority to compel a podiatric physician to submit to a mental or physical examination by physicians designated by the department. Failure of a podiatric physician to submit to such examination when directed shall constitute an admission of the allegations against her or him, unless the failure was due to circumstances beyond her or his control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A podiatric physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of podiatric medicine with reasonable skill and safety to patients.

(s) Gross or repeated malpractice or the failure to practice podiatric medicine at a level of care, skill, and treatment which is recognized by a reasonably prudent podiatric physician as being acceptable under similar conditions and circumstances. The board shall give great weight to the standards for malpractice in s. 766.102 in interpreting this section. As used in this paragraph, "repeated malpractice" includes, but is not limited to, three or more claims for medical malpractice within the previous 5-year period resulting in indemnities being paid in excess of $10,000 each to the claimant in a judgment or settlement and which incidents involved negligent conduct by the podiatric physicians. As used in this paragraph, "gross malpractice" or "the failure to practice podiatric medicine with the level of care, skill, and treatment which is recognized by a reasonably prudent similar podiatric physician as being acceptable under similar conditions and circumstances" shall not be construed so as to require more than one instance, event, or act.

(t) Performing any procedure or prescribing any therapy which, by the prevailing standards of podiatric medical practice in the community, would constitute experimentation on human subjects without first obtaining full, informed, and written consent.

(u) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(v) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(w) Violating ~~any provision of this chapter or chapter 456, any rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the board or department.

(x) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(y) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for any of the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(z) Fraud, deceit, or misconduct in the practice of podiatric medicine.

(aa) Failing to report to the department any licensee under chapter 458 or chapter 459 who the podiatric physician knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the podiatric physician also provides services.

(bb) Failing to comply with the requirements of ss. 381.026 and 381.0261 to provide patients with information about their patient rights and how to file a patient complaint.

(cc) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placing the podiatric physician on probation for a period of time and subject to such conditions as the board may specify, including requiring the podiatric physician to submit to treatment, to attend continuing education courses, to submit to reexamination, and to work under the supervision of another podiatric physician.~~

~~(g) Imposition of an administrative fine in accordance with s. 381.0261 for violations regarding patient rights.~~

Section 27. Subsections (1) and (2) of section 462.14, Florida Statutes, are amended to read:

462.14 Grounds for disciplinary action; action by the department.—

(1) The following acts constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice naturopathic medicine by bribery, by fraudulent misrepresentation, or through an error of the department.

(b) Having a license to practice naturopathic medicine revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of naturopathic medicine or to the ability to practice naturopathic medicine. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice naturopathic medicine contrary to this chapter or to a rule of the department.

(h) Failing to perform any statutory or legal obligation placed upon a licensed naturopathic physician.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensed naturopathic physician.

(j) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent a naturopathic physician from receiving a fee for professional consultation services.

(k) Exercising influence within a patient-physician relationship for purposes of engaging a patient in sexual activity. A patient shall be presumed to be incapable of giving free, full, and informed consent to sexual activity with her or his physician.

(l) Making deceptive, untrue, or fraudulent representations in the practice of naturopathic medicine or employing a trick or scheme in the practice of naturopathic medicine when such scheme or trick fails to conform to the generally prevailing standards of treatment in the medical community.

(m) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A "solicitation" is any communication which directly or implicitly requests an immediate oral response from the recipient.

(n) Failing to keep written medical records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, test results, X rays, and records of the prescribing, dispensing and administering of drugs.

(o) Exercising influence on the patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or of a third party, which shall include, but not be limited to, the promoting or selling of services, goods, appliances, or drugs and the promoting or advertising on any prescription form of a community pharmacy unless the form also states "This prescription may be filled at any pharmacy of your choice."

(p) Performing professional services which have not been duly authorized by the patient or client, or her or his legal representative, except as provided in s. 743.064, s. 766.103, or s. 768.13.

(q) Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the naturopathic physician's professional practice. For the purposes of this paragraph, it shall be legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the naturopathic physician's professional practice, without regard to her or his intent.

(r) Prescribing, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893 by the naturopathic physician to herself or himself, except one prescribed, dispensed, or administered to the naturopathic physician by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

(s) Being unable to practice naturopathic medicine with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel a naturopathic physician to submit to a mental or physical examination by physicians designated by the department. The failure of a naturopathic physician to submit to such an examination when so directed shall constitute an admission of the allegations against her or him upon which a default and final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the naturopathic physician's control. A naturopathic physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of naturopathic medicine with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the department may be used against a naturopathic physician in any other proceeding.

(t) Gross or repeated malpractice or the failure to practice naturopathic medicine with that level of care, skill, and treatment which is recognized by a reasonably prudent similar physician as being acceptable under similar conditions and circumstances. The department shall give great weight to the provisions of s. 766.102 when enforcing this paragraph.

(u) Performing any procedure or prescribing any therapy which, by the prevailing standards of medical practice in the community, constitutes experimentation on a human subject, without first obtaining full, informed, and written consent.

(v) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(w) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(x) Violating ~~any provision of this chapter, any rule of the department, or~~ a lawful order of the department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(y) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(z) Procuring, or aiding or abetting in the procuring of, an unlawful termination of pregnancy.

(aa) Presigning blank prescription forms.

(bb) Prescribing by the naturopathic physician for office use any medicinal drug appearing on Schedule II in chapter 893.

(cc) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any drug which is an amphetamine or sympathomimetic amine drug, or a compound designated pursuant to chapter 893 as a Schedule II controlled substance to or for any person except for:

1. The treatment of narcolepsy; hyperkinesis; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractability, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction.

2. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities.

3. The clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, reviewed, and approved by the department before such investigation is begun.

(dd) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(ee) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The department may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the department finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placement of the naturopathic physician on probation for a period of time and subject to such conditions as the department may specify, including, but not limited to, requiring the naturopathic physician to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another naturopathic physician.~~

Section 28. Subsections (1) and (2) of section 463.016, Florida Statutes, are amended to read:

463.016 Grounds for disciplinary action; action by the board.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Procuring or attempting to procure a license to practice optometry by bribery, by fraudulent misrepresentations, or through an error of the department or board.

(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.

(c) Having a license to practice optometry revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction.

(d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of optometry or to the ability to practice optometry. Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter.

(e) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which are signed by the licensee in her or his capacity as a licensed practitioner.

(f) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(g) Fraud or deceit, negligence or incompetency, or misconduct in the practice of optometry.

(h) A violation or repeated violations of provisions of this chapter, or of chapter 456, and any rules promulgated pursuant thereto.

(i) Conspiring with another licensee or with any person to commit an act, or committing an act, which would coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(j) Willfully submitting to any third-party payor a claim for services which were not provided to a patient.

(k) Failing to keep written optometric records about the examinations, treatments, and prescriptions for patients.

(l) Willfully failing to report any person who the licensee knows is in violation of this chapter or of rules of the department or the board.

(m) Gross or repeated malpractice.

(n) Practicing with a revoked, suspended, inactive, or delinquent license.

(o) Being unable to practice optometry with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A licensed practitioner affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of optometry with reasonable skill and safety to patients.

(p) Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of Florida laws or rules regulating optometry.

(q) Violating any provision of s. 463.014 or s. 463.015.

(r) Violating any lawful order of the board or department, previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the board or department.

(s) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensed practitioner knows or has reason to know she or he is not competent to perform.

(t) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The department may enter an order imposing any of the penalties in s. 456.072(2) against any licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the licensed practitioner on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensed practitioner to submit to treatment, to attend continuing education courses, or to work under the supervision of another licensed practitioner.~~

Section 29. Subsections (1) and (2) of section 464.018, Florida Statutes, are amended to read:

464.018 Disciplinary actions.—

(1) The following acts *constitute* ~~shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~disciplinary action set forth in this section~~:

(a) Procuring, attempting to procure, or renewing a license to practice nursing by bribery, by knowing misrepresentations, or through an error of the department or the board.

(b) Having a license to practice nursing revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of nursing or to the ability to practice nursing.

(d) Being found guilty, regardless of adjudication, of any of the following offenses:

1. A forcible felony as defined in chapter 776.

2. A violation of chapter 812, relating to theft, robbery, and related crimes.

3. A violation of chapter 817, relating to fraudulent practices.

4. A violation of chapter 800, relating to lewdness and indecent exposure.

5. A violation of chapter 784, relating to assault, battery, and culpable negligence.

6. A violation of chapter 827, relating to child abuse.

7. A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.

8. A violation of chapter 39, relating to child abuse, abandonment, and neglect.

(e) Having been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under s. 435.03 or under any similar statute of another jurisdiction; or having committed an act which constitutes domestic violence as defined in s. 741.28.

(f) Making or filing a false report or record, which the licensee knows to be false, intentionally or negligently failing to file a report or record

required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the nurse's capacity as a licensed nurse.

(g) False, misleading, or deceptive advertising.

(h) Unprofessional conduct, which shall include, but not be limited to, any departure from, or the failure to conform to, the minimal standards of acceptable and prevailing nursing practice, in which case actual injury need not be established.

(i) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth in chapter 893, for any other than legitimate purposes authorized by this part.

(j) Being unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, or chemicals or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice nursing because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A nurse affected by the provisions of this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of nursing with reasonable skill and safety to patients.

(k) Failing to report to the department any person who the licensee knows is in violation of this part or of the rules of the department or the board; however, if the licensee verifies that such person is actively participating in a board-approved program for the treatment of a physical or mental condition, the licensee is required to report such person only to an impaired professionals consultant.

(l) Knowingly violating any provision of this part, a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

(m) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the nurse knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the nurse also provides services.

(n) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license with reinstatement subject to the provisions of subsection (3).~~

~~(c) Permanent revocation of a license.~~

~~(d) Restriction of practice.~~

~~(e) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(f) Issuance of a reprimand.~~

~~(g) Placement of the nurse on probation for a period of time and subject to such conditions as the board may specify, including requiring the nurse to submit to treatment, to attend continuing education courses, to take an examination, or to work under the supervision of another nurse.~~

Section 30. Subsections (3) and (4) of section 465.008, Florida Statutes, are amended to read:

465.008 Renewal of license.—

~~(3) Sixty days prior to the end of the biennium the department shall mail a notice of renewal to the last known address of the licensee.~~

(3)~~(4)~~ Any person licensed under this chapter for 50 years or more is exempt from the payment of the renewal or delinquent fee, and the department shall issue a lifetime license to such a person.

Section 31. Subsections (1) and (2) of section 465.016, Florida Statutes, are amended to read:

465.016 Disciplinary actions.—

(1) The following acts *constitute* ~~shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~disciplinary action set forth in this section~~:

(a) Obtaining a license by misrepresentation or fraud or through an error of the department or the board.

(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.

(c) Permitting any person not licensed as a pharmacist in this state or not registered as an intern in this state, or permitting a registered intern who is not acting under the direct and immediate personal supervision of a licensed pharmacist, to fill, compound, or dispense any prescriptions in a pharmacy owned and operated by such pharmacist or in a pharmacy where such pharmacist is employed or on duty.

(d) Being unfit or incompetent to practice pharmacy by reason of:

1. Habitual intoxication.

2. The misuse or abuse of any medicinal drug appearing in any schedule set forth in chapter 893.

3. Any abnormal physical or mental condition which threatens the safety of persons to whom she or he might sell or dispense prescriptions, drugs, or medical supplies or for whom she or he might manufacture, prepare, or package, or supervise the manufacturing, preparation, or packaging of, prescriptions, drugs, or medical supplies.

(e) Violating ~~any of the requirements of this chapter; or if licensed as a practitioner in this or any other state, violating any of the requirements of their respective practice act or violating~~ chapter 499; 21 U.S.C. ss. 301-392, known as the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., known as the Comprehensive Drug Abuse Prevention and Control Act; or chapter 893.

(f) Having been convicted or found guilty, regardless of adjudication, in a court of this state or other jurisdiction, of a crime which directly relates to the ability to practice pharmacy or to the practice of pharmacy. A plea of nolo contendere constitutes a conviction for purposes of this provision.

(g) Using in the compounding of a prescription, or furnishing upon prescription, an ingredient or article different in any manner from the ingredient or article prescribed, except as authorized in s. 465.019(6) or s. 465.025.

(h) Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of this chapter.

(i) Compounding, dispensing, or distributing a legend drug, including any controlled substance, other than in the course of the

professional practice of pharmacy. For purposes of this paragraph, it shall be legally presumed that the compounding, dispensing, or distributing of legend drugs in excessive or inappropriate quantities is not in the best interests of the patient and is not in the course of the professional practice of pharmacy.

(j) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by federal or state law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records include only those which the licensee is required to make or file in her or his capacity as a licensed pharmacist.

(k) Failing to make prescription fee or price information readily available by failing to provide such information upon request and upon the presentation of a prescription for pricing or dispensing. Nothing in this section shall be construed to prohibit the quotation of price information on a prescription drug to a potential consumer by telephone.

(l) Placing in the stock of any pharmacy any part of any prescription compounded or dispensed which is returned by a patient; however, in a hospital, nursing home, correctional facility, or extended care facility in which unit-dose medication is dispensed to inpatients, each dose being individually sealed and the individual unit dose or unit-dose system labeled with the name of the drug, dosage strength, manufacturer's control number, and expiration date, if any, the unused unit dose of medication may be returned to the pharmacy for redispensing. Each pharmacist shall maintain appropriate records for any unused or returned medicinal drugs.

(m) Being unable to practice pharmacy with reasonable skill and safety by reason of illness, use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. A pharmacist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of pharmacy with reasonable skill and safety to her or his customers.

(n) Violating a rule of the board or department or violating an order of the board or department previously entered in a disciplinary hearing.

(o) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the pharmacist knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the pharmacist also provides services.

(p) Failing to notify the Board of Pharmacy in writing within 20 days of the commencement or cessation of the practice of the profession of pharmacy in Florida when such commencement or cessation of the practice of the profession of pharmacy in Florida was a result of a pending or completed disciplinary action or investigation in another jurisdiction.

(q) Using or releasing a patient's records except as authorized by this chapter and chapter 456.

(r) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the pharmacist on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the pharmacist to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another pharmacist.~~

Section 32. Subsections (1) and (2) of section 466.028, Florida Statutes, are amended to read:

466.028 Grounds for disciplinary action; action by the board.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery, fraudulent misrepresentations, or through an error of the department or the board.

(b) Having a license to practice dentistry or dental hygiene revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of dentistry or dental hygiene. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges.

(d) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content contrary to s. 466.019 or rules of the board adopted pursuant thereto.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Failing to report to the department any person who the licensee knows, or has reason to believe, is clearly in violation of this chapter or of the rules of the department or the board.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice dentistry or dental hygiene contrary to this chapter or to a rule of the department or the board.

(h) Being employed by any corporation, organization, group, or person other than a dentist or a professional corporation or limited liability company composed of dentists to practice dentistry.

(i) Failing to perform any statutory or legal obligation placed upon a licensee.

(j) Making or filing a report which the licensee knows to be false, failing to file a report or record required by state or federal law, knowingly impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the capacity as a licensee.

(k) Committing any act which would constitute sexual battery, as defined in chapter 794, upon a patient or intentionally touching the sexual organ of a patient.

(l) Making deceptive, untrue, or fraudulent representations in or related to the practice of dentistry.

(m) Failing to keep written dental records and medical history records justifying the course of treatment of the patient including, but not limited to, patient histories, examination results, test results, and X rays, if taken.

(n) Failing to make available to a patient or client, or to her or his legal representative or to the department if authorized in writing by the patient, copies of documents in the possession or under control of the licensee which relate to the patient or client.

(o) Performing professional services which have not been duly authorized by the patient or client, or her or his legal representative, except as provided in ss. 766.103 and 768.13.

(p) Prescribing, procuring, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the professional practice of the dentist. For the purposes of this paragraph, it shall be legally presumed that prescribing, procuring, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the professional practice of the dentist, without regard to her or his intent.

(q) Prescribing, procuring, dispensing, or administering any medicinal drug appearing on any schedule set forth in chapter 893, by a dentist to herself or himself, except those prescribed, dispensed, or administered to the dentist by another practitioner authorized to prescribe them.

(r) Prescribing, procuring, ordering, dispensing, administering, supplying, selling, or giving any drug which is a Schedule II amphetamine or a Schedule II sympathomimetic amine drug or a compound thereof, pursuant to chapter 893, to or for any person except for the clinical investigation of the effects of such drugs or compounds when an investigative protocol therefor is submitted to, and reviewed and approved by, the board before such investigation is begun.

(s) Being unable to practice her or his profession with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the secretary or her or his designee that probable cause exists to believe that the licensee is unable to practice dentistry or dental hygiene because of the reasons stated in this paragraph, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of her or his profession with reasonable skill and safety to patients.

(t) Fraud, deceit, or misconduct in the practice of dentistry or dental hygiene.

(u) Failure to provide and maintain reasonable sanitary facilities and conditions.

(v) Failure to provide adequate radiation safeguards.

(w) Performing any procedure or prescribing any therapy which, by the prevailing standards of dental practice in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(x) Being guilty of incompetence or negligence by failing to meet the minimum standards of performance in diagnosis and treatment when measured against generally prevailing peer performance, including, but not limited to, the undertaking of diagnosis and treatment for which the dentist is not qualified by training or experience or being guilty of dental malpractice. For purposes of this paragraph, it shall be legally presumed that a dentist is not guilty of incompetence or negligence by declining to treat an individual if, in the dentist's professional judgment, the dentist or a member of her or his clinical staff is not qualified by training and experience, or the dentist's treatment facility is not clinically satisfactory or properly equipped to treat the unique characteristics and health status of the dental patient, provided the dentist refers the patient to a qualified dentist or facility for appropriate treatment. As used in this paragraph, "dental malpractice" includes, but is not limited to, three or more claims within the previous 5-year period which resulted in indemnity being paid, or any single indemnity paid in excess of $5,000 in a judgment or settlement, as a result of negligent conduct on the part of the dentist.

(y) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(z) Delegating professional responsibilities to a person who is not qualified by training, experience, or licensure to perform them.

(aa) The violation ~~or the repeated violation of this chapter, chapter 456, or any rule promulgated pursuant to chapter 456 or this chapter; the violation~~ of a lawful order of the board or department previously entered in a disciplinary hearing; or failure to comply with a lawfully issued subpoena of the board or department.

(bb) Conspiring with another licensee or with any person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(cc) Being adjudged mentally incompetent in this or any other state, the discipline for which shall last only so long as the adjudication.

(dd) Presigning blank prescription or laboratory work order forms.

(ee) Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. For the purposes of this subsection, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products listed above may be dispensed by the pharmacist with the presumption that the prescription is for legitimate medical use.

(ff) Operating or causing to be operated a dental office in such a manner as to result in dental treatment that is below minimum acceptable standards of performance for the community. This includes, but is not limited to, the use of substandard materials or equipment, the imposition of time limitations within which dental procedures are to be performed, or the failure to maintain patient records as required by this chapter.

(gg) Administering anesthesia in a manner which violates rules of the board adopted pursuant to s. 466.017.

(hh) Failing to report to the department any licensee under chapter 458 or chapter 459 who the dentist knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the dentist also provides services.

(ii) Failing to report to the board, in writing, within 30 days if action has been taken against one's license to practice dentistry in another state, territory, or country.

(jj) Advertising specialty services in violation of this chapter.

(kk) Allowing any person other than another dentist or a professional corporation or limited liability company composed of dentists to direct, control, or interfere with a dentist's clinical judgment; however, this paragraph may not be construed to limit a patient's right of informed consent. To direct, control, or interfere with a dentist's clinical judgment may not be interpreted to mean dental services contractually excluded, the application of alternative benefits that may be appropriate given the dentist's prescribed course of treatment, or the application of contractual provisions and scope of coverage determinations in comparison with a dentist's prescribed treatment on behalf of a covered person by an insurer, health maintenance organization, or a prepaid limited health service organization.

(ll) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or*

licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1). ~~When the board finds any applicant or licensee guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $3,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or demonstrate competency through a written or practical examination or to work under the supervision of another licensee.~~

~~(f) Restricting the authorized scope of practice.~~

Section 33. Section 466.037, Florida Statutes, is amended to read:

466.037 Suspension and revocation; administrative fine.—The department may suspend or revoke the certificate of any dental laboratory registered under s. 466.032, for failing to comply with the provisions of this chapter or rules adopted by the department under this chapter. The department may impose an administrative fine ~~not to exceed $500 for each count or separate offense~~.

Section 34. Subsections (1) and (2) of section 467.203, Florida Statutes, are amended to read:

467.203 Disciplinary actions; penalties.—

(1) The following acts *constitute* ~~shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~disciplinary action as set forth in this section~~:

(a) Procuring, attempting to procure, or renewing a license to practice midwifery by bribery, by fraudulent misrepresentation, or through an error of the department.

(b) Having a license to practice midwifery revoked, suspended, or otherwise acted against, including being denied licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, in any jurisdiction of a crime which directly relates to the practice of midwifery or to the ability to practice midwifery. A plea of nolo contendere shall be considered a conviction for purposes of this provision.

(d) Making or filing a false report or record, which the licensee knows to be false; intentionally or negligently failing to file a report or record required by state or federal law; or willfully impeding or obstructing such filing or inducing another to do so. Such reports or records shall include only those which are signed in the midwife's capacity as a licensed midwife.

(e) Advertising falsely, misleadingly, or deceptively.

(f) Engaging in unprofessional conduct, which includes, but is not limited to, any departure from, or the failure to conform to, the standards of practice of midwifery as established by the department, in which case actual injury need not be established.

(g) Being unable to practice midwifery with reasonable skill and safety to patients by reason of illness; drunkenness; or use of drugs, narcotics, chemicals, or other materials or as a result of any mental or physical condition. A midwife affected under this paragraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume the competent practice of midwifery with reasonable skill and safety.

(h) Failing to report to the department any person who the licensee knows is in violation of this chapter or of the rules of the department.

(i) ~~Willfully or repeatedly~~ Violating ~~any provision of this chapter, any rule of the department, or~~ any lawful order of the department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

(j) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The department may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the department finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to approve an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the midwife on probation for such period of time and subject to such conditions as the department may specify, including requiring the midwife to submit to treatment; undertake further relevant education or training; take an examination; or work under the supervision of another licensed midwife, a physician, or a nurse midwife licensed under part I of chapter 464.~~

Section 35. Subsections (1) and (2) of section 468.1295, Florida Statutes, are amended to read:

468.1295 Disciplinary proceedings.—

(1) The following acts constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~both disciplinary actions as set forth in subsection (2) and cease and desist or other related actions by the department as set forth in s. 456.065~~:

(a) Procuring or attempting to procure a license by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b) Having a license revoked, suspended, or otherwise acted against, including denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of speech-language pathology or audiology.

(d) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or records required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such report or record shall include only those reports or records which are signed in one's capacity as a licensed speech-language pathologist or audiologist.

(e) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(f) Being proven guilty of fraud or deceit or of negligence, incompetency, or misconduct in the practice of speech-language pathology or audiology.

(g) Violating a lawful order of the board or department previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the board or department.

(h) Practicing with a revoked, suspended, inactive, or delinquent license.

(i) Using, or causing or promoting the use of, any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand,

insignia, or other representation, however disseminated or published, which is misleading, deceiving, or untruthful.

(j) Showing or demonstrating or, in the event of sale, delivery of a product unusable or impractical for the purpose represented or implied by such action.

(k) Failing to submit to the board on an annual basis, or such other basis as may be provided by rule, certification of testing and calibration of such equipment as designated by the board and on the form approved by the board.

(l) Aiding, assisting, procuring, employing, or advising any licensee or business entity to practice speech-language pathology or audiology contrary to this part, chapter 456, or any rule adopted pursuant thereto.

~~(m) Violating any provision of this part or chapter 456 or any rule adopted pursuant thereto.~~

(m)~~(n)~~ Misrepresenting the professional services available in the fitting, sale, adjustment, service, or repair of a hearing aid, or using any other term or title which might connote the availability of professional services when such use is not accurate.

(n)~~(o)~~ Representing, advertising, or implying that a hearing aid or its repair is guaranteed without providing full disclosure of the identity of the guarantor; the nature, extent, and duration of the guarantee; and the existence of conditions or limitations imposed upon the guarantee.

(o)~~(p)~~ Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features, such as the absence of anything in the ear or leading to the ear, or the like, without disclosing clearly and conspicuously that the instrument operates on the bone conduction principle and that in many cases of hearing loss this type of instrument may not be suitable.

(p)~~(q)~~ Stating or implying that the use of any hearing aid will improve or preserve hearing or prevent or retard the progression of a hearing impairment or that it will have any similar or opposite effect.

(q)~~(r)~~ Making any statement regarding the cure of the cause of a hearing impairment by the use of a hearing aid.

(r)~~(s)~~ Representing or implying that a hearing aid is or will be "custom-made," "made to order," or "prescription-made," or in any other sense specially fabricated for an individual, when such is not the case.

(s)~~(t)~~ Canvassing from house to house or by telephone, either in person or by an agent, for the purpose of selling a hearing aid, except that contacting persons who have evidenced an interest in hearing aids, or have been referred as in need of hearing aids, shall not be considered canvassing.

(t)~~(u)~~ Failing to notify the department in writing of a change in current mailing and place-of-practice address within 30 days after such change.

(u)~~(v)~~ Failing to provide all information as described in ss. 468.1225(5)(b), 468.1245(1), and 468.1246.

(v)~~(w)~~ Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.

(w)~~(x)~~ Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee or certificateholder knows, or has reason to know, the licensee or certificateholder is not competent to perform.

(x)~~(y)~~ Aiding, assisting, procuring, or employing any unlicensed person to practice speech-language pathology or audiology.

(y)~~(z)~~ Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting for performance of such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization to perform them.

(z)~~(aa)~~ Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined pursuant to s. 468.1296.

(aa)~~(bb)~~ Being unable to practice the profession for which he or she is licensed or certified under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness, drunkenness, or use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the secretary, his or her designee, or the board that probable cause exists to believe that the licensee or certificateholder is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee or certificateholder to submit to a mental or physical examination by a physician, psychologist, clinical social worker, marriage and family therapist, or mental health counselor designated by the department or board. If the licensee or certificateholder refuses to comply with the department's order directing the examination, such order may be enforced by filing a petition for enforcement in the circuit court in the circuit in which the licensee or certificateholder resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice for which he or she is licensed or certified with reasonable skill and safety to patients.

(bb) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the acts set forth in subsection (1), it may issue an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify, or to certify with restrictions, an application for licensure.~~

~~(b) Suspension or permanent revocation of a license.~~

~~(c) Issuance of a reprimand.~~

~~(d) Restriction of the authorized scope of practice.~~

~~(e) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(f) Placement of the licensee or certificateholder on probation for a period of time and subject to such conditions as the board may specify. Those conditions may include, but are not limited to, requiring the licensee or certificateholder to undergo treatment, attend continuing education courses, submit to be reexamined, work under the supervision of another licensee, or satisfy any terms which are reasonably tailored to the violation found.~~

~~(g) Corrective action.~~

Section 36. Subsections (1) and (2) of section 468.1755, Florida Statutes, are amended to read:

468.1755 Disciplinary proceedings.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions in subsection (2) may be taken~~:

(a) Violation of any provision of s. 456.072(1) or s. 468.1745(1).

(b) Attempting to procure a license to practice nursing home administration by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(c) Having a license to practice nursing home administration revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which relates to the practice of nursing home administration or the ability to practice nursing home administration. Any plea of nolo contendere shall be considered a conviction for purposes of this part.

(e) Making or filing a report or record which the licensee knows to be false, intentionally failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those which are signed in the capacity of a licensed nursing home administrator.

(f) Authorizing the discharge or transfer of a resident for a reason other than those provided in ss. 400.022 and 400.0255.

(g) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(h) Fraud or deceit, negligence, incompetence, or misconduct in the practice of nursing home administration.

~~(i) A violation or repeated violations of this part, chapter 456, or any rules promulgated pursuant thereto.~~

(i)~~(j)~~ Violation of a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the board or department.

(j)~~(k)~~ Practicing with a revoked, suspended, inactive, or delinquent license.

(k)~~(l)~~ Repeatedly acting in a manner inconsistent with the health, safety, or welfare of the patients of the facility in which he or she is the administrator.

(l)~~(m)~~ Being unable to practice nursing home administration with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals, or any other material or substance or as a result of any mental or physical condition. In enforcing this paragraph, upon a finding of the secretary or his or her designee that probable cause exists to believe that the licensee is unable to serve as a nursing home administrator due to the reasons stated in this paragraph, the department shall have the authority to issue an order to compel the licensee to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as a nursing home administrator. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall have the opportunity, at reasonable intervals, to demonstrate that he or she can resume the competent practice of nursing home administration with reasonable skill and safety to patients.

(m)~~(n)~~ Willfully or repeatedly violating any of the provisions of the law, code, or rules of the licensing or supervising authority or agency of the state or political subdivision thereof having jurisdiction of the operation and licensing of nursing homes.

(n)~~(o)~~ Paying, giving, causing to be paid or given, or offering to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of nursing home usage.

(o)~~(p)~~ Willfully permitting unauthorized disclosure of information relating to a patient or his or her records.

(p)~~(q)~~ Discriminating with respect to patients, employees, or staff on account of race, religion, color, sex, or national origin.

(q) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any nursing home administrator guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or to work under the supervision of another licensee.~~

~~(f) Restriction of the authorized scope of practice.~~

Section 37. Section 468.217, Florida Statutes, is amended to read:

468.217 Denial of or refusal to renew license; suspension and revocation of license and other disciplinary measures.—

(1) *The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~The board may deny or refuse to renew a license, suspend or revoke a license, issue a reprimand, impose a fine, or impose probationary conditions upon a licensee, when the licensee or applicant for license has been guilty of unprofessional conduct which has endangered, or is likely to endanger, the health, welfare, or safety of the public. Such unprofessional conduct includes~~:

(a) Attempting to obtain, obtaining, or renewing a license to practice occupational therapy by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b) Having a license to practice occupational therapy revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of occupational therapy or to the ability to practice occupational therapy. A plea of nolo contendere shall be considered a conviction for the purposes of this part.

(d) False, deceptive, or misleading advertising.

(e) Advertising, practicing, or attempting to practice under a name other than one's own name.

(f) Failing to report to the department any person who the licensee knows is in violation of this part or of the rules of the department or of the board.

(g) Aiding, assisting, procuring, or advising any unlicensed person to practice occupational therapy contrary to this part or to a rule of the department or the board.

(h) Failing to perform any statutory or legal obligation placed upon a licensed occupational therapist or occupational therapy assistant.

(i) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records include only those which are signed in the capacity as a licensed occupational therapist or occupational therapy assistant.

(j) Paying or receiving any commission, bonus, kickback, or rebate to or from, or engaging in any split-fee arrangement in any form whatsoever with, a physician, organization, agency, or person, either

directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent an occupational therapist or occupational therapy assistant from receiving a fee for professional consultation services.

(k) Exercising influence within a patient-therapist relationship for purposes of engaging a patient in sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with the patient's occupational therapist or occupational therapy assistant.

(l) Making deceptive, untrue, or fraudulent representations in the practice of occupational therapy or employing a trick or scheme in the practice of occupational therapy if such scheme or trick fails to conform to the generally prevailing standards of treatment in the occupational therapy community.

(m) Soliciting patients, either personally or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct. A "solicitation" is any communication which directly or implicitly requests an immediate oral response from the recipient.

(n) Failing to keep written records justifying the course of treatment of the patient, including, but not limited to, patient histories, examination results, and test results.

(o) Exercising influence on the patient or client in such a manner as to exploit the patient or client for financial gain of the licensee or of a third party which includes, but is not limited to, the promoting or selling of services, goods, appliances, or drugs.

(p) Performing professional services which have not been duly authorized by the patient or client, or his or her legal representative, except as provided in s. 768.13.

(q) Gross or repeated malpractice or the failure to practice occupational therapy with that level of care, skill, and treatment which is recognized by a reasonably prudent similar occupational therapist or occupational therapy assistant as being acceptable under similar conditions and circumstances.

(r) Performing any procedure which, by the prevailing standards of occupational therapy practice in the community, would constitute experimentation on a human subject without first obtaining full, informed, and written consent.

(s) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(t) Being unable to practice occupational therapy with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel an occupational therapist or occupational therapy assistant to submit to a mental or physical examination by physicians designated by the department. The failure of an occupational therapist or occupational therapy assistant to submit to such examination when so directed constitutes an admission of the allegations against him or her, upon which a default and final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond his or her control. An occupational therapist or occupational therapy assistant affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of occupational therapy with reasonable skill and safety to patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against an occupational therapist or occupational therapy assistant in any other proceeding.

(u) Delegating professional responsibilities to a person when the licensee who is delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform them.

(v) Violating ~~any provision of this part, a rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(w) Conspiring with another licensee or with any other person to commit an act, or committing an act, which would tend to coerce, intimidate, or preclude another licensee from lawfully advertising his or her services.

(x) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(3)~~(2)~~ The board may not reinstate the license of an occupational therapist or occupational therapy assistant, or cause a license to be issued to a person it has deemed unqualified, until such time as the board is satisfied that such person has complied with all the terms and conditions set forth in the final order and is capable of safely engaging in the practice of occupational therapy.

Section 38. Subsections (1) and (2) of section 468.365, Florida Statutes, are amended to read:

468.365 Disciplinary grounds and actions.—

(1) The following acts constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions in subsection (2) may be taken~~:

(a) Procuring, attempting to procure, or renewing a license as provided by this part by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b) Having licensure, certification, registration, or other authority, by whatever name known, to deliver respiratory care services revoked, suspended, or otherwise acted against, including the denial of licensure, certification, registration, or other authority to deliver respiratory care services by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to respiratory care services or to the ability to deliver such services.

(d) Willfully making or filing a false report or record, willfully failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records include only those reports or records which require the signature of a respiratory care practitioner or respiratory therapist licensed pursuant to this part.

(e) Circulating false, misleading, or deceptive advertising.

(f) Unprofessional conduct, which includes, but is not limited to, any departure from, or failure to conform to, acceptable standards related to the delivery of respiratory care services, as set forth by the board in rules adopted pursuant to this part.

(g) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances, as set forth by law, for any purpose other than a legitimate purpose.

(h) Willfully failing to report any violation of this part.

(i) ~~Willfully or repeatedly~~ Violating ~~a rule of the board or the department or~~ a lawful order of the board or department previously entered in a disciplinary hearing.

~~(j) Violation of any rule adopted pursuant to this part or chapter 456.~~

(j)~~(k)~~ Engaging in the delivery of respiratory care services with a revoked, suspended, or inactive license.

(k)~~(l)~~ Permitting, aiding, assisting, procuring, or advising any person who is not licensed pursuant to this part, contrary to this part or to any rule of the department or the board.

(l)~~(m)~~ Failing to perform any statutory or legal obligation placed upon a respiratory care practitioner or respiratory therapist licensed pursuant to this part.

(m)~~(n)~~ Accepting and performing professional responsibilities which the licensee knows, or has reason to know, she or he is not competent to perform.

(n)~~(o)~~ Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform them.

(o)~~(p)~~ Gross or repeated malpractice or the failure to deliver respiratory care services with that level of care, skill, and treatment which is recognized by a reasonably prudent respiratory care practitioner or respiratory therapist with similar professional training as being acceptable under similar conditions and circumstances.

(p)~~(q)~~ Paying or receiving any commission, bonus, kickback, or rebate to or from, or engaging in any split-fee arrangement in any form whatsoever with, a person, organization, or agency, either directly or indirectly, for goods or services rendered to patients referred by or to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent the licensee from receiving a fee for professional consultation services.

(q)~~(r)~~ Exercising influence within a respiratory care relationship for the purpose of engaging a patient in sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with the patient's respiratory care practitioner or respiratory therapist.

(r)~~(s)~~ Making deceptive, untrue, or fraudulent representations in the delivery of respiratory care services or employing a trick or scheme in the delivery of respiratory care services if such a scheme or trick fails to conform to the generally prevailing standards of other licensees within the community.

(s)~~(t)~~ Soliciting patients, either personally or through an agent, through the use of fraud, deception, or otherwise misleading statements or through the exercise of intimidation or undue influence.

(t)~~(u)~~ Failing to keep written respiratory care records justifying the reason for the action taken by the licensee.

(u)~~(v)~~ Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the licensee or a third party, which includes, but is not limited to, the promoting or selling of services, goods, appliances, or drugs.

(v)~~(w)~~ Performing professional services which have not been duly ordered by a physician licensed pursuant to chapter 458 or chapter 459 and which are not in accordance with protocols established by the hospital, other health care provider, or the board, except as provided in ss. 743.064, 766.103, and 768.13.

(w)~~(x)~~ Being unable to deliver respiratory care services with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material as a result of any mental or physical condition. In enforcing this paragraph, the department shall, upon probable cause, have authority to compel a respiratory care practitioner or respiratory therapist to submit to a mental or physical examination by physicians designated by the department. The cost of examination shall be borne by the licensee being examined. The failure of a respiratory care practitioner or respiratory therapist to submit to such an examination when so directed constitutes an admission of the allegations against her or him, upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond her or his control. A respiratory care practitioner or respiratory therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent delivery of respiratory care services with reasonable skill and safety to her or his patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a respiratory care practitioner or respiratory therapist in any other proceeding.

(x) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~If the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure.~~

~~(b) Revocation or suspension of licensure.~~

~~(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(d) Placement of the respiratory care practitioner or respiratory therapist on probation for such period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the respiratory care practitioner or respiratory therapist to submit to treatment, to attend continuing education courses, or to work under the supervision of another respiratory care practitioner or respiratory therapist.~~

~~(e) Issuance of a reprimand.~~

Section 39. Subsections (1) and (2) of section 468.518, Florida Statutes, are amended to read:

468.518 Grounds for disciplinary action.—

(1) The following acts constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions in subsection (2) may be taken~~:

(a) Violating any provision of this part, any board or agency rule adopted pursuant thereto, or any lawful order of the board or agency previously entered in a disciplinary hearing held pursuant to this part, or failing to comply with a lawfully issued subpoena of the agency. The provisions of this paragraph also apply to any order or subpoena previously issued by the Department of Health during its period of regulatory control over this part.

(b) Being unable to engage in dietetics and nutrition practice or nutrition counseling with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

1. A licensee whose license is suspended or revoked pursuant to this paragraph shall, at reasonable intervals, be given an opportunity to demonstrate that he or she can resume the competent practice of dietetics and nutrition or nutrition counseling with reasonable skill and safety to patients.

2. Neither the record of the proceeding nor the orders entered by the board in any proceeding under this paragraph may be used against a licensee in any other proceeding.

(c) Attempting to procure or procuring a license to practice dietetics and nutrition or nutrition counseling by fraud or material misrepresentation of material fact.

(d) Having a license to practice dietetics and nutrition or nutrition counseling revoked, suspended, or otherwise acted against, including the denial of licensure by the licensing authority of another state, district, territory, or country.

(e) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of dietetics and nutrition or nutrition counseling or the ability to practice dietetics and nutrition or nutrition counseling.

(f) Making or filing a report or record that the licensee knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records include only those that are signed in the capacity of a licensed dietitian/nutritionist or licensed nutrition counselor.

(g) Advertising goods or services in a manner that is fraudulent, false, deceptive, or misleading in form or content.

(h) Committing an act of fraud or deceit, or of negligence, incompetency, or misconduct in the practice of dietetics and nutrition or nutrition counseling.

(i) Practicing with a revoked, suspended, inactive, or delinquent license.

(j) Treating or undertaking to treat human ailments by means other than by dietetics and nutrition practice or nutrition counseling.

(k) Failing to maintain acceptable standards of practice as set forth by the board and the council in rules adopted pursuant to this part.

(l) Engaging directly or indirectly in the dividing, transferring, assigning, rebating, or refunding of fees received for professional services, or profiting by means of a credit or other valuable consideration, such as an unearned commission, discount, or gratuity, with any person referring a patient or with any relative or business associate of the referring person. Nothing in this part prohibits the members of any regularly and properly organized business entity that is composed of licensees under this part and recognized under the laws of this state from making any division of their total fees among themselves as they determine necessary.

(m) Advertising, by or on behalf of a licensee under this part, any method of assessment or treatment which is experimental or without generally accepted scientific validation.

(n) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any licensee guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure;~~

~~(b) Revocation or suspension of a license;~~

~~(c) Imposition of an administrative fine not to exceed $1,000 for each violation;~~

~~(d) Issuance of a reprimand or letter of guidance;~~

~~(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or to work under the supervision of a licensed dietitian/nutritionist or licensed nutrition counselor; or~~

~~(f) Restriction of the authorized scope of practice of the licensee.~~

Section 40. Section 468.719, Florida Statutes, is amended to read:

468.719 Disciplinary actions.—

(1) The following acts *constitute* ~~shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~disciplinary actions provided for in subsection (2)~~:

~~(a) A violation of any law relating to the practice of athletic training, including, but not limited to, any violation of this part, s. 456.072, or any rule adopted pursuant thereto.~~

(a)~~(b)~~ Failing to include the athletic trainer's name and license number in any advertising, including, but not limited to, business cards and letterhead, related to the practice of athletic training. Advertising shall not include clothing or other novelty items.

(b)~~(c)~~ Committing incompetency or misconduct in the practice of athletic training.

(c)~~(d)~~ Committing fraud or deceit in the practice of athletic training.

(d)~~(e)~~ Committing negligence, gross negligence, or repeated negligence in the practice of athletic training.

(e)~~(f)~~ While practicing athletic training, being unable to practice athletic training with reasonable skill and safety to athletes by reason of illness or use of alcohol or drugs or as a result of any mental or physical condition.

(f) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the acts set forth in subsection (1), the board may enter an order imposing one or more of the penalties provided in s. 456.072.~~

Section 41. Section 468.811, Florida Statutes, is amended to read:

468.811 Disciplinary proceedings.—

(1) The following acts *constitute* ~~are~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2):* ~~disciplinary action against a licensee and the issuance of cease and desist orders or other related action by the department, pursuant to s. 456.072, against any person who engages in or aids in a violation.~~

(a) Attempting to procure a license by fraudulent misrepresentation.

(b) Having a license to practice orthotics, prosthetics, or pedorthics revoked, suspended, or otherwise acted against, including the denial of licensure in another jurisdiction.

(c) Being convicted or found guilty of or pleading nolo contendere to, regardless of adjudication, in any jurisdiction, a crime that directly relates to the practice of orthotics, prosthetics, or pedorthics, including violations of federal laws or regulations regarding orthotics, prosthetics, or pedorthics.

(d) Filing a report or record that the licensee knows is false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records include only reports or records that are signed in a person's capacity as a licensee under this act.

(e) Advertising goods or services in a fraudulent, false, deceptive, or misleading manner.

~~(f) Violation of this act or chapter 456, or any rules adopted thereunder.~~

(f)~~(g)~~ Violation of an order of the board, agency, or department previously entered in a disciplinary hearing or failure to comply with a subpoena issued by the board, agency, or department.

(g)~~(h)~~ Practicing with a revoked, suspended, or inactive license.

(h)~~(i)~~ Gross or repeated malpractice or the failure to deliver orthotic, prosthetic, or pedorthic services with that level of care and skill which is recognized by a reasonably prudent licensed practitioner with similar professional training as being acceptable under similar conditions and circumstances.

(i)~~(j)~~ Failing to provide written notice of any applicable warranty for an orthosis, prosthesis, or pedorthic device that is provided to a patient.

(j) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~The board may enter an order imposing one or more of the penalties in s. 456.072(2) against any person who violates any provision of subsection (1).~~

Section 42. Subsections (1) and (2) of section 478.52, Florida Statutes, are amended to read:

478.52 Disciplinary proceedings.—

(1) The following acts *constitute* ~~are~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions in subsection (2) may be taken~~:

(a) Obtaining or attempting to obtain a license by bribery, fraud, or knowing misrepresentation.

(b) Having a license or other authority to deliver electrolysis services revoked, suspended, or otherwise acted against, including denial of licensure, in another jurisdiction.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime, in any jurisdiction, which directly relates to the practice of electrology.

(d) Willfully making or filing a false report or record, willfully failing to file a report or record required for electrologists, or willfully impeding or obstructing the filing of a report or record required by this act or inducing another person to do so.

(e) Circulating false, misleading, or deceptive advertising.

(f) Unprofessional conduct, including any departure from, or failure to conform to, acceptable standards related to the delivery of electrolysis services.

(g) Engaging or attempting to engage in the illegal possession, sale, or distribution of any illegal or controlled substance.

(h) Willfully failing to report any known violation of this chapter.

(i) Willfully or repeatedly violating a rule adopted under this chapter, or an order of the board or department previously entered in a disciplinary hearing.

(j) Engaging in the delivery of electrolysis services without an active license.

(k) Employing an unlicensed person to practice electrology.

(l) Failing to perform any statutory or legal obligation placed upon an electrologist.

(m) Accepting and performing professional responsibilities which the licensee knows, or has reason to know, she or he is not competent to perform.

(n) Delegating professional responsibilities to a person the licensee knows, or has reason to know, is unqualified by training, experience, or licensure to perform.

(o) Gross or repeated malpractice or the inability to practice electrology with reasonable skill and safety.

(p) Judicially determined mental incompetency.

(q) Practicing or attempting to practice electrology under a name other than her or his own.

(r) Being unable to practice electrology with reasonable skill and safety because of a mental or physical condition or illness, or the use of alcohol, controlled substances, or any other substance which impairs one's ability to practice.

1. The department may, upon probable cause, compel a licensee to submit to a mental or physical examination by physicians designated by the department. The cost of an examination shall be borne by the licensee, and her or his failure to submit to such an examination constitutes an admission of the allegations against her or him, consequent upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond her or his control.

2. A licensee who is disciplined under this paragraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that she or he can resume the practice of electrology with reasonable skill and safety.

3. In any proceeding under this paragraph, the record of proceedings or the orders entered by the board may not be used against a licensee in any other proceeding.

(s) Disclosing the identity of or information about a patient without written permission, except for information which does not identify a patient and which is used for training purposes in an approved electrolysis training program.

(t) Practicing or attempting to practice any permanent hair removal except as described in s. 478.42(5).

(u) Operating any electrolysis facility unless it has been duly licensed as provided in this chapter.

(v) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), including conduct that would constitute a substantial violation of subsection (1) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:~~

~~(a) Deny the application for licensure.~~

~~(b) Revoke or suspend the license.~~

~~(c) Impose an administrative fine not to exceed $5,000 for each count or separate offense.~~

~~(d) Place the licensee on probation for a specified time and subject the licensee to such conditions as the board determines necessary, including, but not limited to, requiring treatment, continuing education courses, reexamination, or working under the supervision of another licensee.~~

~~(e) Issue a reprimand to the licensee.~~

~~(f) Restriction of a licensee's practice.~~

Section 43. Subsections (1) and (2) of section 480.046, Florida Statutes, are amended to read:

480.046 Grounds for disciplinary action by the board.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which disciplinary actions specified in subsection (2) may be taken against a massage therapist or massage establishment licensed under this act~~:

(a) Attempting to procure a license to practice massage by bribery or fraudulent misrepresentation.

(b) Having a license to practice massage revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of massage or to the ability to practice massage. Any plea of nolo contendere shall be considered a conviction for purposes of this chapter.

(d) False, deceptive, or misleading advertising.

(e) Aiding, assisting, procuring, or advising any unlicensed person to practice massage contrary to the provisions of this chapter or to a rule of the department or the board.

(f) Making deceptive, untrue, or fraudulent representations in the practice of massage.

(g) Being unable to practice massage with reasonable skill and safety by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon probable cause, authority to compel a massage therapist to submit to a mental or physical examination by physicians designated by the department. Failure of a massage therapist to submit to such examination when so directed, unless the failure was due to circumstances beyond her or his control, shall constitute an admission of the allegations against her or him, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A massage therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of massage with reasonable skill and safety to clients.

(h) Gross or repeated malpractice or the failure to practice massage with that level of care, skill, and treatment which is recognized by a reasonably prudent massage therapist as being acceptable under similar conditions and circumstances.

(i) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform.

(j) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, experience, or licensure to perform.

(k) Violating ~~any provision of this chapter, a rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the department.

(l) Refusing to permit the department to inspect the business premises of the licensee during regular business hours.

(m) Failing to keep the equipment and premises of the massage establishment in a clean and sanitary condition.

(n) Practicing massage at a site, location, or place which is not duly licensed as a massage establishment, except that a massage therapist, as provided by rules adopted by the board, may provide massage services, excluding colonic irrigation, at the residence of a client, at the office of the client, at a sports event, at a convention, or at a trade show.

(o) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to license an applicant.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Issuance of a reprimand or censure.~~

~~(d) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

Section 44. Section 483.825, Florida Statutes, is amended to read:

483.825 Grounds for disciplinary action.—

(1) The following acts constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which disciplinary actions specified in s. 483.827 may be taken against applicants, registrants, and licensees under this part~~:

(a)~~(1)~~ Attempting to obtain, obtaining, or renewing a license or registration under this part by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b)~~(2)~~ Engaging in or attempting to engage in, or representing herself or himself as entitled to perform, any clinical laboratory procedure or category of procedures not authorized pursuant to her or his license.

(c)~~(3)~~ Demonstrating incompetence or making consistent errors in the performance of clinical laboratory examinations or procedures or erroneous reporting.

(d)~~(4)~~ Performing a test and rendering a report thereon to a person not authorized by law to receive such services.

(e)~~(5)~~ Has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the activities of clinical laboratory personnel or involves moral turpitude or fraudulent or dishonest dealing. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the state shall be admissible as prima facie evidence of such guilt.

(f)~~(6)~~ Having been adjudged mentally or physically incompetent.

(g)~~(7)~~ ~~Violating or~~ Aiding and abetting in the violation of any provision of this part or the rules adopted hereunder.

(h)~~(8)~~ Reporting a test result when no laboratory test was performed on a clinical specimen.

(i)~~(9)~~ Knowingly advertising false services or credentials.

(j)~~(10)~~ Having a license revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another jurisdiction. The licensing authority's acceptance of a relinquishment of a license, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of administrative charges against the licensee, shall be construed as action against the licensee.

(k)~~(11)~~ Failing to report to the board, in writing, within 30 days that an action under subsection (5), subsection (6), or subsection (10) has been taken against the licensee or one's license to practice as clinical laboratory personnel in another state, territory, country, or other jurisdiction.

(l)~~(12)~~ Being unable to perform or report clinical laboratory examinations with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. In enforcing this subsection, the department shall have, upon a finding of the secretary or his or her designee that probable cause exists to believe that the licensee is unable to practice because of the reasons stated in this subsection, the authority to issue an order to compel a licensee to submit to a mental or physical examination by physicians designated by

the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or does business. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this subsection shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume competent practice with reasonable skill and safety to patients.

(m)~~(13)~~ Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform them.

(n)~~(14)~~ Violating a previous order of the board entered in a disciplinary proceeding.

(o)~~(15)~~ Failing to report to the department a person or other licensee who the licensee knows is in violation of this chapter or the rules of the department or board adopted hereunder.

(p)~~(16)~~ Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so, including, but not limited to, impeding an agent of the state from obtaining a report or record for investigative purposes. Such reports or records shall include only those generated in the capacity as a licensed clinical laboratory personnel.

(q)~~(17)~~ Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly for patients referred to providers of health care goods and services including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this subsection shall not be construed to prevent a clinical laboratory professional from receiving a fee for professional consultation services.

(r)~~(18)~~ Exercising influence on a patient or client in such a manner as to exploit the patient or client for the financial gain of the licensee or other third party, which shall include, but not be limited to, the promoting, selling, or withholding of services, goods, appliances, referrals, or drugs.

(s)~~(19)~~ Practicing or offering to practice beyond the scope permitted by law or rule, or accepting or performing professional services or responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.

(t)~~(20)~~ Misrepresenting or concealing a material fact at any time during any phase of the licensing, investigative, or disciplinary process, procedure, or proceeding.

(u)~~(21)~~ Improperly interfering with an investigation or any disciplinary proceeding.

(v)~~(22)~~ Engaging in or attempting to engage in sexual misconduct, causing undue embarrassment or using disparaging language or language of a sexual nature towards a patient, exploiting superior/subordinate, professional/patient, instructor/student relationships for personal gain, sexual gratification, or advantage.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(3) In determining the amount of the fine to be levied for a violation, as provided in subsection (1), the following factors shall be considered:

(a) The severity of the violation, including the probability that death or serious harm to the health or safety of any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of this part were violated.

(b) Actions taken by the licensee to correct the violation or to remedy complaints.

(c) Any previous violation by the licensee.

(d) The financial benefit to the licensee of committing or continuing the violation.

Section 45. *Section 483.827, Florida Statutes, is repealed.*

Section 46. Subsection (6) of section 483.901, Florida Statutes, is amended to read:

483.901 Medical physicists; definitions; licensure.—

(6) LICENSE REQUIRED.—An individual may not engage in the practice of medical physics, including the specialties of diagnostic radiological physics, therapeutic radiological physics, medical nuclear radiological physics, or medical health physics, without a license issued by the department for the appropriate specialty.

(a) The department shall adopt rules to administer this section which specify license application and renewal fees, continuing education requirements, and standards for practicing medical physics. The council shall recommend to the department continuing education requirements that shall be a condition of license renewal. The department shall require a minimum of 24 hours per biennium of continuing education offered by an organization recommended by the council and approved by the department. The department, upon recommendation of the council, may adopt rules to specify continuing education requirements for persons who hold a license in more than one specialty.

(b) In order to apply for a medical physicist license in one or more specialties, a person must file an individual application for each specialty with the department. The application must be on a form prescribed by the department and must be accompanied by a nonrefundable application fee for each specialty.

(c) The department may issue a license to an eligible applicant if the applicant meets all license requirements. At any time before the department issues a license, the applicant may request in writing that the application be withdrawn. To reapply, the applicant must submit a new application and an additional nonrefundable application fee and must meet all current licensure requirements.

(d) The department shall review each completed application for a license which the department receives.

(e) On receipt of an application and fee as specified in this section, the department may issue a license to practice medical physics in this state on or after October 1, 1997, to a person who is board certified in the medical physics specialty in which the applicant applies to practice by the American Board of Radiology for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; by the American Board of Medical Physics for diagnostic radiological physics, therapeutic radiological physics, or medical nuclear radiological physics; or by the American Board of Health Physics or an equivalent certifying body approved by the department.

(f) A licensee shall:

1. Display the license in a place accessible to the public; and

2. Report immediately any change in the licensee's address or name to the department.

(g) The following acts *constitute* ~~are~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions in paragraph (h) may be taken~~:

1. Obtaining or attempting to obtain a license by bribery, fraud, knowing misrepresentation, or concealment of material fact or through an error of the department.

2. Having a license denied, revoked, suspended, or otherwise acted against in another jurisdiction.

3. Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, the profession of medical physics.

4. Willfully failing to file a report or record required for medical physics or willfully impeding or obstructing the filing of a report or record required by this section or inducing another person to do so.

5. Making misleading, deceptive, or fraudulent representations in or related to the practice of medical physics.

6. Willfully failing to report any known violation of this section or any rule adopted thereunder.

~~7. Willfully or repeatedly violating a rule adopted under this section or an order of the department.~~

7.~~8.~~ Failing to perform any statutory or legal obligation placed upon a licensee.

8.~~9.~~ Aiding, assisting, procuring, employing, or advising any unlicensed person to practice medical physics contrary to this section or any rule adopted thereunder.

9.~~10.~~ Delegating or contracting for the performance of professional responsibilities by a person when the licensee delegating or contracting such responsibilities knows, or has reason to know, such person is not qualified by training, experience, and authorization to perform them.

10.~~11.~~ Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

11.~~12.~~ Gross or repeated malpractice or the inability to practice medical physics with reasonable skill and safety.

12.~~13.~~ Judicially determined mental incompetency.

13.~~14.~~ Being unable to practice medical physics with reasonable skill and safety because of a mental or physical condition or illness or the use of alcohol, controlled substances, or any other substance which impairs one's ability to practice.

a. The department may, upon probable cause, compel a licensee to submit to a mental or physical examination by physicians designated by the department. The cost of an examination shall be borne by the licensee, and the licensee's failure to submit to such an examination constitutes an admission of the allegations against the licensee, consequent upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond the licensee's control.

b. A licensee who is disciplined under this subparagraph shall, at reasonable intervals, be afforded an opportunity to demonstrate that the licensee can resume the practice of medical physics with reasonable skill and safety.

c. With respect to any proceeding under this subparagraph, the record of proceedings or the orders entered by the department may not be used against a licensee in any other proceeding.

14. Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(h) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the department finds any person guilty of any of the grounds set forth in paragraph (g), including conduct that would constitute a substantial violation of paragraph (g) which occurred prior to licensure, it may enter an order imposing one or more of the following penalties:~~

~~1. Deny the application for licensure.~~

~~2. Revoke or suspend the license.~~

~~3. Impose an administrative fine for each count or separate offense.~~

~~4. Place the licensee on probation for a specified time and subject the licensee to such conditions as the department determines necessary, including requiring treatment, continuing education courses, or working under the monitoring or supervision of another licensee.~~

~~5. Restrict a licensee's practice.~~

~~6. Issue a reprimand to the licensee.~~

(i) The department may not issue or reinstate a license to a person it has deemed unqualified until it is satisfied that such person has complied with the terms and conditions of the final order and that the licensee can safely practice medical physics.

(j) Upon receipt of a complete application and the fee set forth by rule, the department may issue a physicist-in-training certificate to a person qualified to practice medical physics under direct supervision. The department may establish by rule requirements for initial certification and renewal of a physicist-in-training certificate.

Section 47. Subsections (1) and (2) of section 484.014, Florida Statutes, are amended to read:

484.014 Disciplinary actions.—

(1) The following acts *constitute* ~~relating to the practice of opticianry shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~both disciplinary action against an optician as set forth in this section and cease and desist or other related action by the department as set forth in s. 456.065 against any person operating an optical establishment who engages in, aids, or abets any such violation~~:

(a) Procuring or attempting to procure a license by misrepresentation, bribery, or fraud or through an error of the department or the board.

(b) Procuring or attempting to procure a license for any other person by making or causing to be made any false representation.

(c) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by federal or state law, willfully impeding or obstructing such filing, or inducing another person to do so. Such reports or records shall include only those which the person is required to make or file as an optician.

(d) Failing to make fee or price information readily available by providing such information upon request or upon the presentation of a prescription.

(e) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(f) Fraud or deceit, or negligence, incompetency, or misconduct, in the authorized practice of opticianry.

~~(g) Violation or repeated violation of this part or of chapter 456 or any rules promulgated pursuant thereto.~~

(g)~~(h)~~ Practicing with a revoked, suspended, inactive, or delinquent license.

(h)~~(i)~~ Violation of a lawful order of the board or department previously entered in a disciplinary hearing or failing to comply with a lawfully issued subpoena of the department.

(i)~~(j)~~ Violation of any provision of s. 484.012.

(j)~~(k)~~ Conspiring with another licensee or with any person to commit an act, or committing an act, which would coerce, intimidate, or preclude another licensee from lawfully advertising her or his services.

(k)~~(l)~~ Willfully submitting to any third-party payor a claim for services which were not provided to a patient.

(l)~~(m)~~ Failing to keep written prescription files.

(m)~~(n)~~ Willfully failing to report any person who the licensee knows is in violation of this part or of rules of the department or the board.

(n)~~(o)~~ Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.

(o)~~(p)~~ Gross or repeated malpractice.

(p)~~(q)~~ Permitting any person not licensed as an optician in this state to fit or dispense any lenses, spectacles, eyeglasses, or other optical devices which are part of the practice of opticianry.

(q)~~(r)~~ Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, in a court of this state or other jurisdiction, a crime which relates to the ability to practice opticianry or to the practice of opticianry.

(r)~~(s)~~ Having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of Florida law or rules regulating opticianry.

(s)~~(t)~~ Being unable to practice opticianry with reasonable skill and safety by reason of illness or use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition. An optician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of opticianry with reasonable skill and safety to her or his customers.

(t) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(d) Issuance of a reprimand.~~

~~(e) Placement of the optician on probation for a period of time and subject to such conditions as the board may specify, including requiring the optician to submit to treatment or to work under the supervision of another optician.~~

Section 48. Subsections (1) and (2) of section 484.056, Florida Statutes, are amended to read:

484.056 Disciplinary proceedings.—

(1) The following acts *constitute* ~~relating to the practice of dispensing hearing aids shall be~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~both disciplinary action against a hearing aid specialist as set forth in this section and cease and desist or other related action by the department as set forth in s. 456.065 against any person owning or operating a hearing aid establishment who engages in, aids, or abets any such violation~~:

(a) Violation of any provision of s. 456.072(1), s. 484.0512, or s. 484.053.

(b) Attempting to procure a license to dispense hearing aids by bribery, by fraudulent misrepresentations, or through an error of the department or the board.

(c) Having a license to dispense hearing aids revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(d) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of dispensing hearing aids or the ability to practice dispensing hearing aids, including violations of any federal laws or regulations regarding hearing aids.

(e) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those reports or records which are signed in one's capacity as a licensed hearing aid specialist.

(f) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(g) Proof that the licensee is guilty of fraud or deceit or of negligence, incompetency, or misconduct in the practice of dispensing hearing aids.

~~(h) Violation or repeated violation of this part or of chapter 456, or any rules promulgated pursuant thereto.~~

(h)~~(i)~~ Violation of a lawful order of the board or department previously entered in a disciplinary hearing or failure to comply with a lawfully issued subpoena of the board or department.

(i)~~(j)~~ Practicing with a revoked, suspended, inactive, or delinquent license.

(j)~~(k)~~ Using, or causing or promoting the use of, any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or other representation, however disseminated or published, which is misleading, deceiving, or untruthful.

(k)~~(l)~~ Showing or demonstrating, or, in the event of sale, delivery of, a product unusable or impractical for the purpose represented or implied by such action.

(l)~~(m)~~ Misrepresentation of professional services available in the fitting, sale, adjustment, service, or repair of a hearing aid, or use of the terms "doctor," "clinic," "clinical," "medical audiologist," "clinical audiologist," "research audiologist," or "audiologic" or any other term or title which might connote the availability of professional services when such use is not accurate.

(m)~~(n)~~ Representation, advertisement, or implication that a hearing aid or its repair is guaranteed without providing full disclosure of the identity of the guarantor; the nature, extent, and duration of the guarantee; and the existence of conditions or limitations imposed upon the guarantee.

(n)~~(o)~~ Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features, such as the absence of anything in the ear or leading to the ear, or the like, without disclosing clearly and conspicuously that the instrument operates on the bone conduction principle and that in many cases of hearing loss this type of instrument may not be suitable.

(o)~~(p)~~ Making any predictions or prognostications as to the future course of a hearing impairment, either in general terms or with reference to an individual person.

(p)~~(q)~~ Stating or implying that the use of any hearing aid will improve or preserve hearing or prevent or retard the progression of a hearing impairment or that it will have any similar or opposite effect.

(q)~~(r)~~ Making any statement regarding the cure of the cause of a hearing impairment by the use of a hearing aid.

(r)~~(s)~~ Representing or implying that a hearing aid is or will be "custom-made," "made to order," or "prescription-made" or in any other sense specially fabricated for an individual person when such is not the case.

(s)~~(t)~~ Canvassing from house to house or by telephone either in person or by an agent for the purpose of selling a hearing aid, except that contacting persons who have evidenced an interest in hearing aids, or

have been referred as in need of hearing aids, shall not be considered canvassing.

(t)~~(u)~~ Failure to submit to the board on an annual basis, or such other basis as may be provided by rule, certification of testing and calibration of audiometric testing equipment on the form approved by the board.

(u)~~(v)~~ Failing to provide all information as described in s. 484.051(1).

(v)~~(w)~~ Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2)(a) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~Except as provided in paragraph (b), when the board finds any hearing aid specialist to be guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~1. Denial of an application for licensure.~~

~~2. Revocation or suspension of a license.~~

~~3. Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~4. Issuance of a reprimand.~~

~~5. Placing the hearing aid specialist on probation for a period of time and subject to such conditions as the board may specify, including requiring the hearing aid specialist to attend continuing education courses or to work under the supervision of another hearing aid specialist.~~

~~6. Restricting the authorized scope of practice.~~

(b) The board shall revoke the license of any hearing aid specialist found guilty of canvassing as described in this section.

Section 49. Subsections (1) and (2) of section 486.125, Florida Statutes, are amended to read:

486.125 Refusal, revocation, or suspension of license; administrative fines and other disciplinary measures.—

(1) The following acts ~~shall~~ constitute grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions specified in subsection (2) may be taken~~:

(a) Being unable to practice physical therapy with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

1. In enforcing this paragraph, upon a finding of the secretary or the secretary's designee that probable cause exists to believe that the licensee is unable to practice physical therapy due to the reasons stated in this paragraph, the department shall have the authority to compel a physical therapist or physical therapist assistant to submit to a mental or physical examination by a physician designated by the department. If the licensee refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the licensee resides or serves as a physical therapy practitioner. The licensee against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011.

2. A physical therapist or physical therapist assistant whose license is suspended or revoked pursuant to this subsection shall, at reasonable intervals, be given an opportunity to demonstrate that she or he can resume the competent practice of physical therapy with reasonable skill and safety to patients.

3. Neither the record of proceeding nor the orders entered by the board in any proceeding under this subsection may be used against a physical therapist or physical therapist assistant in any other proceeding.

(b) Having committed fraud in the practice of physical therapy or deceit in obtaining a license as a physical therapist or as a physical therapist assistant.

(c) Being convicted or found guilty regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of physical therapy or to the ability to practice physical therapy. The entry of any plea of nolo contendere shall be considered a conviction for purpose of this chapter.

(d) Having treated or undertaken to treat human ailments by means other than by physical therapy, as defined in this chapter.

(e) Failing to maintain acceptable standards of physical therapy practice as set forth by the board in rules adopted pursuant to this chapter.

(f) Engaging directly or indirectly in the dividing, transferring, assigning, rebating, or refunding of fees received for professional services, or having been found to profit by means of a credit or other valuable consideration, such as an unearned commission, discount, or gratuity, with any person referring a patient or with any relative or business associate of the referring person. Nothing in this chapter shall be construed to prohibit the members of any regularly and properly organized business entity which is comprised of physical therapists and which is recognized under the laws of this state from making any division of their total fees among themselves as they determine necessary.

(g) Having a license revoked or suspended; having had other disciplinary action taken against her or him; or having had her or his application for a license refused, revoked, or suspended by the licensing authority of another state, territory, or country.

(h) Violating ~~any provision of this chapter, a rule of the board or department, or~~ a lawful order of the board or department previously entered in a disciplinary hearing.

(i) Making or filing a report or record which the licensee knows to be false. Such reports or records shall include only those which are signed in the capacity of a physical therapist.

(j) Practicing or offering to practice beyond the scope permitted by law or accepting and performing professional responsibilities which the licensee knows or has reason to know that she or he is not competent to perform, including, but not limited to, specific spinal manipulation.

(k) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) *The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).* ~~When the board finds any person guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:~~

~~(a) Refusal to certify to the department an application for licensure.~~

~~(b) Revocation or suspension of a license.~~

~~(c) Restriction of practice.~~

~~(d) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(e) Issuance of a reprimand.~~

~~(f) Placement of the physical therapist or physical therapist assistant on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physical therapist or physical therapist assistant to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of another physical therapist.~~

~~(g) Recovery of actual costs of investigation and prosecution.~~

Section 50. Section 490.009, Florida Statutes, is amended to read:

490.009 Discipline.—

~~(1) When the department or, in the case of psychologists, the board finds that an applicant, provisional licensee, or licensee whom it regulates under this chapter has committed any of the acts set forth in subsection (2), it may issue an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure, either temporarily or permanently.~~

~~(b) Revocation of an application for licensure, either temporarily or permanently.~~

~~(c) Suspension for a period of up to 5 years or revocation of a license, after hearing.~~

~~(d) Immediate suspension of a license pursuant to s. 120.60(6).~~

~~(e) Imposition of an administrative fine not to exceed $5,000 for each count or separate offense.~~

~~(f) Issuance of a public reprimand.~~

~~(g) Placement of an applicant or licensee on probation for a period of time and subject to conditions specified by the department or, in the case of psychologists, by the board, including, but not limited to, requiring the applicant or licensee to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of a designated licensee.~~

~~(h) Restriction of practice.~~

(1)~~(2)~~ The following acts *constitute* ~~of a licensee, provisional licensee, or applicant are~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions listed in subsection (1) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery or fraudulent misrepresentation or through an error of the board or department.

(b) Having a license to practice a comparable profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. A plea of nolo contendere creates a rebuttable presumption of guilt of the underlying criminal charges. However, the board shall allow the person who is the subject of the disciplinary proceeding to present any evidence relevant to the underlying charges and circumstances surrounding the plea.

(d) False, deceptive, or misleading advertising or obtaining a fee or other thing of value on the representation that beneficial results from any treatment will be guaranteed.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Maintaining a professional association with any person who the applicant or licensee knows, or has reason to believe, is in violation of this chapter or of a rule of the department or, in the case of psychologists, of the department or the board.

(g) Knowingly aiding, assisting, procuring, or advising any nonlicensed person to hold himself or herself out as licensed under this chapter.

(h) Failing to perform any statutory or legal obligation placed upon a person licensed under this chapter.

(i) Willfully making or filing a false report or record; failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record; or inducing another person to make or file a false report or record or to impede or obstruct the filing of a report or record. Such report or record includes only a report or record which requires the signature of a person licensed under this chapter.

(j) Paying a kickback, rebate, bonus, or other remuneration for receiving a patient or client, or receiving a kickback, rebate, bonus, or other remuneration for referring a patient or client to another provider of mental health care services or to a provider of health care services or goods; referring a patient or client to oneself for services on a fee-paid basis when those services are already being paid for by some other public or private entity; or entering into a reciprocal referral agreement.

(k) Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined in s. 490.0111.

(l) Making misleading, deceptive, untrue, or fraudulent representations in the practice of any profession licensed under this chapter.

(m) Soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct.

(n) Failing to make available to a patient or client, upon written request, copies of test results, reports, or documents in the possession or under the control of the licensee which have been prepared for and paid for by the patient or client.

(o) Failing to respond within 30 days to a written communication from the department concerning any investigation by the department or to make available any relevant records with respect to any investigation about the licensee's conduct or background.

(p) Being unable to practice the profession for which he or she is licensed under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the secretary, the secretary's designee, or the board that probable cause exists to believe that the licensee is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee to submit to a mental or physical examination by psychologists or physicians designated by the department or board. If the licensee refuses to comply with the department's order, the department may file a petition for enforcement in the circuit court of the circuit in which the licensee resides or does business. The licensee shall not be named or identified by initials in the petition or in any other public court records or documents, and the enforcement proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall be afforded an opportunity at reasonable intervals to demonstrate that he or she can resume the competent practice for which he or she is licensed with reasonable skill and safety to patients.

~~(q) Violating provisions of this chapter, or of chapter 456, or any rules adopted pursuant thereto.~~

(q)~~(r)~~ Performing any treatment or prescribing any therapy which, by the prevailing standards of the mental health professions in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(r)~~(s)~~ Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not qualified by training or experience.

(s)~~(t)~~ Delegating professional responsibilities to a person whom the licensee knows or has reason to know is not qualified by training or experience to perform such responsibilities.

(t)~~(u)~~ Violating a rule relating to the regulation of the profession or a lawful order of the department previously entered in a disciplinary hearing.

(u)~~(v)~~ Failing to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 490.0147.

(v)~~(w)~~ Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The department, or in the case of psychologists, the board, may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

Section 51. Section 491.009, Florida Statutes, is amended to read:

491.009 Discipline.—

~~(1) When the department or the board finds that an applicant, licensee, provisional licensee, registered intern, or certificateholder whom it regulates under this chapter has committed any of the acts set forth in subsection (2), it may issue an order imposing one or more of the following penalties:~~

~~(a) Denial of an application for licensure, registration, or certification, either temporarily or permanently.~~

~~(b) Revocation of an application for licensure, registration, or certification, either temporarily or permanently.~~

~~(c) Suspension for a period of up to 5 years or revocation of a license, registration, or certificate, after hearing.~~

~~(d) Immediate suspension of a license, registration, or certificate pursuant to s. 120.60(6).~~

~~(e) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.~~

~~(f) Issuance of a public reprimand.~~

~~(g) Placement of an applicant, licensee, registered intern, or certificateholder on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the applicant, licensee, registered intern, or certificateholder to submit to treatment, to attend continuing education courses, to submit to reexamination, or to work under the supervision of a designated licensee or certificateholder.~~

~~(h) Restriction of practice.~~

(1)~~(2)~~ The following acts *constitute* ~~of a licensee, provisional licensee, registered intern, certificateholder, or applicant are~~ grounds for *denial of a license or disciplinary action, as specified in s. 456.072(2)* ~~which the disciplinary actions listed in subsection (1) may be taken~~:

(a) Attempting to obtain, obtaining, or renewing a license, registration, or certificate under this chapter by bribery or fraudulent misrepresentation or through an error of the board or the department.

(b) Having a license, registration, or certificate to practice a comparable profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country.

(c) Being convicted or found guilty of, regardless of adjudication, or having entered a plea of nolo contendere to, a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. However, in the case of a plea of nolo contendere, the board shall allow the person who is the subject of the disciplinary proceeding to present evidence in mitigation relevant to the underlying charges and circumstances surrounding the plea.

(d) False, deceptive, or misleading advertising or obtaining a fee or other thing of value on the representation that beneficial results from any treatment will be guaranteed.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Maintaining a professional association with any person who the applicant, licensee, registered intern, or certificateholder knows, or has reason to believe, is in violation of this chapter or of a rule of the department or the board.

(g) Knowingly aiding, assisting, procuring, or advising any nonlicensed, nonregistered, or noncertified person to hold himself or herself out as licensed, registered, or certified under this chapter.

(h) Failing to perform any statutory or legal obligation placed upon a person licensed, registered, or certified under this chapter.

(i) Willfully making or filing a false report or record; failing to file a report or record required by state or federal law; willfully impeding or obstructing the filing of a report or record; or inducing another person to make or file a false report or record or to impede or obstruct the filing of a report or record. Such report or record includes only a report or record which requires the signature of a person licensed, registered, or certified under this chapter.

(j) Paying a kickback, rebate, bonus, or other remuneration for receiving a patient or client, or receiving a kickback, rebate, bonus, or other remuneration for referring a patient or client to another provider of mental health care services or to a provider of health care services or goods; referring a patient or client to oneself for services on a fee-paid basis when those services are already being paid for by some other public or private entity; or entering into a reciprocal referral agreement.

(k) Committing any act upon a patient or client which would constitute sexual battery or which would constitute sexual misconduct as defined pursuant to s. 491.0111.

(l) Making misleading, deceptive, untrue, or fraudulent representations in the practice of any profession licensed, registered, or certified under this chapter.

(m) Soliciting patients or clients personally, or through an agent, through the use of fraud, intimidation, undue influence, or a form of overreaching or vexatious conduct.

(n) Failing to make available to a patient or client, upon written request, copies of tests, reports, or documents in the possession or under the control of the licensee, registered intern, or certificateholder which have been prepared for and paid for by the patient or client.

(o) Failing to respond within 30 days to a written communication from the department or the board concerning any investigation by the department or the board, or failing to make available any relevant records with respect to any investigation about the licensee's, registered intern's, or certificateholder's conduct or background.

(p) Being unable to practice the profession for which he or she is licensed, registered, or certified under this chapter with reasonable skill or competence as a result of any mental or physical condition or by reason of illness; drunkenness; or excessive use of drugs, narcotics, chemicals, or any other substance. In enforcing this paragraph, upon a finding by the secretary, the secretary's designee, or the board that probable cause exists to believe that the licensee, registered intern, or

certificateholder is unable to practice the profession because of the reasons stated in this paragraph, the department shall have the authority to compel a licensee, registered intern, or certificateholder to submit to a mental or physical examination by psychologists, physicians, or other licensees under this chapter, designated by the department or board. If the licensee, registered intern, or certificateholder refuses to comply with such order, the department's order directing the examination may be enforced by filing a petition for enforcement in the circuit court in the circuit in which the licensee, registered intern, or certificateholder resides or does business. The licensee, registered intern, or certificateholder against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee, registered intern, or certificateholder affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice for which he or she is licensed, registered, or certified with reasonable skill and safety to patients.

~~(q) Violating provisions of this chapter, or of chapter 456, or any rules adopted pursuant thereto.~~

(q)~~(r)~~ Performing any treatment or prescribing any therapy which, by the prevailing standards of the mental health professions in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(r)~~(s)~~ Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee, registered intern, or certificateholder is not qualified by training or experience.

(s)~~(t)~~ Delegating professional responsibilities to a person whom the licensee, registered intern, or certificateholder knows or has reason to know is not qualified by training or experience to perform such responsibilities.

(t)~~(u)~~ Violating a rule relating to the regulation of the profession or a lawful order of the department or the board previously entered in a disciplinary hearing.

(u)~~(v)~~ Failure of the licensee, registered intern, or certificateholder to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 491.0147.

(v)~~(w)~~ Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

(w) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The department, or in the case of psychologists, the board, may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

Section 52. Subsection (3) of section 456.065, Florida Statutes, is amended to read:

456.065 Unlicensed practice of a health care profession; intent; cease and desist notice; penalties; enforcement; citations; fees; allocation and disposition of moneys collected.—

(3) Because all enforcement costs should be covered by professions regulated by the department, the department shall impose, upon initial licensure and each licensure renewal, a special fee of $5 per licensee to fund efforts to combat unlicensed activity. Such fee shall be in addition to all other fees collected from each licensee. ~~The board, with concurrence of the department, or the department when there is no board, may earmark $5 of the current licensure fee for this purpose, if such board, or profession regulated by the department, is not in a deficit and has a reasonable cash balance.~~ The department shall make direct charges to the Medical Quality Assurance Trust Fund by profession. The department shall seek board advice regarding enforcement methods and strategies. The department shall directly credit the Medical Quality Assurance Trust Fund, by profession, with the revenues received from the department's efforts to enforce licensure provisions. The department shall include all financial and statistical data resulting from unlicensed activity enforcement as a separate category in the quarterly management report provided for in s. 456.025. For an unlicensed activity account, a balance which remains at the end of a renewal cycle may, with concurrence of the applicable board and the department, be transferred to the operating fund account of that profession. The department shall also use these funds to inform and educate consumers generally on the importance of using licensed health care practitioners.

Section 53. Paragraphs (e) and (f) of subsection (4) of section 458.347, Florida Statutes, are amended to read:

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe any medication used in the supervisory physician's practice *unless* ~~if~~ such medication is listed on the formulary created pursuant to paragraph (f). A fully licensed physician assistant may only prescribe such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that he or she is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed by the physician assistant.

2. The supervisory physician must notify the department of his or her intent to delegate, on a department-approved form, before delegating such authority and notify the department of any change in prescriptive privileges of the physician assistant.

3. The physician assistant must file with the department, before commencing to prescribe, evidence that he or she has completed a continuing medical education course of at least 3 classroom hours in prescriptive practice, conducted by an accredited program approved by the boards, which course covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs, or evidence that he or she has received education comparable to the continuing education course as part of an accredited physician assistant training program.

4. The physician assistant must file with the department, before commencing to prescribe, evidence that the physician assistant has a minimum of 3 months of clinical experience in the specialty area of the supervising physician.

5. The physician assistant must file with the department a signed affidavit that he or she has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application.

6. The department shall issue a license and a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements.

7. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. *Unless it is a drug sample dispensed by the physician assistant,* the prescription must be filled in a pharmacy permitted under chapter 465 and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

8. The physician assistant must note the prescription in the appropriate medical record, and the supervisory physician must review

and sign each notation. For dispensing purposes only, the failure of the supervisory physician to comply with these requirements does not affect the validity of the prescription.

9. This paragraph does not prohibit a supervisory physician from delegating to a physician assistant the authority to order medication for a hospitalized patient of the supervisory physician.

This paragraph does not apply to facilities licensed pursuant to chapter 395.

(f)1. ~~There is created a five-member committee appointed by the Secretary of Health. The committee must be composed of one fully licensed physician assistant licensed pursuant to this section or s. 459.022, two physicians licensed pursuant to this chapter, one of whom supervises a fully licensed physician assistant, one osteopathic physician licensed pursuant to chapter 459, and one pharmacist licensed pursuant to chapter 465 who is not licensed pursuant to this chapter or chapter 459.~~ The *council* ~~committee~~ shall establish a formulary of medicinal drugs *that* ~~for which~~ a fully licensed physician assistant*, licensed under this section or s. 459.022,* may *not* prescribe. The formulary *must* ~~may not~~ include controlled substances as defined in chapter 893, ~~antineoplastics,~~ antipsychotics, ~~radiopharmaceuticals,~~ general anesthetics *and* ~~or~~ radiographic contrast materials, *and all* ~~or any~~ parenteral preparations except insulin and epinephrine.

2. In establishing the formulary, the council shall consult with a pharmacist licensed under chapter 465, but not licensed under this chapter or chapter 459, who shall be selected by the Secretary of Health.

3.~~2.~~ Only the *council* ~~committee~~ shall add to, delete from, or modify the formulary. Any person who requests an addition, deletion, or modification of a medicinal drug listed on such formulary has the burden of proof to show cause why such addition, deletion, or modification should be made.

4.~~3.~~ The boards shall adopt the formulary required by this paragraph, and each addition, deletion, or modification to the formulary, by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall be effective 60 days after the date it is filed with the Secretary of State. Upon adoption of the formulary, the department shall mail a copy of such formulary to each fully licensed physician assistant*, licensed under this section or s. 459.022,* and to each pharmacy licensed by the state. The boards shall establish, by rule, a fee not to exceed $200 to fund the provisions of this paragraph and paragraph (e).

Section 54. Subsection (4) and paragraph (c) of subsection (9) of section 459.022, Florida Statutes, are amended to read:

459.022 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(a) The boards shall adopt, by rule, the general principles that supervising physicians must use in developing the scope of practice of a physician assistant under direct supervision and under indirect supervision. These principles shall recognize the diversity of both specialty and practice settings in which physician assistants are used.

(b) This chapter does not prevent third-party payors from reimbursing employers of physician assistants for covered services rendered by licensed physician assistants.

(c) Licensed physician assistants may not be denied clinical hospital privileges, except for cause, so long as the supervising physician is a staff member in good standing.

(d) A supervisory physician may delegate to a licensed physician assistant, pursuant to a written protocol, the authority to act according to s. 154.04(1)(c). Such delegated authority is limited to the supervising physician's practice in connection with a county health department as defined and established pursuant to chapter 154. The boards shall adopt rules governing the supervision of physician assistants by physicians in county health departments.

(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe any medication used in the supervisory physician's practice *unless* ~~if~~ such medication is listed on the formulary created pursuant to s. 458.347. A fully licensed physician assistant may only prescribe such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that she or he is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed by the physician assistant.

2. The supervisory physician must notify the department of her or his intent to delegate, on a department-approved form, before delegating such authority and notify the department of any change in prescriptive privileges of the physician assistant.

3. The physician assistant must file with the department, before commencing to prescribe, evidence that she or he has completed a continuing medical education course of at least 3 classroom hours in prescriptive practice, conducted by an accredited program approved by the boards, which course covers the limitations, responsibilities, and privileges involved in prescribing medicinal drugs, or evidence that she or he has received education comparable to the continuing education course as part of an accredited physician assistant training program.

4. The physician assistant must file with the department, before commencing to prescribe, evidence that the physician assistant has a minimum of 3 months of clinical experience in the specialty area of the supervising physician.

5. The physician assistant must file with the department a signed affidavit that she or he has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application.

6. The department shall issue a license and a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements.

7. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. *Unless it is a drug sample dispensed by the physician assistant,* the prescription must be filled in a pharmacy permitted under chapter 465, and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

8. The physician assistant must note the prescription in the appropriate medical record, and the supervisory physician must review and sign each notation. For dispensing purposes only, the failure of the supervisory physician to comply with these requirements does not affect the validity of the prescription.

9. This paragraph does not prohibit a supervisory physician from delegating to a physician assistant the authority to order medication for a hospitalized patient of the supervisory physician.

This paragraph does not apply to facilities licensed pursuant to chapter 395.

~~(f)1. There is created a five-member committee appointed by the Secretary of Health. The committee must be composed of one fully licensed physician assistant licensed pursuant to this section or s. 458.347, two physicians licensed pursuant to chapter 458, one of whom supervises a fully licensed physician assistant, one osteopathic physician licensed pursuant to this chapter, and one pharmacist licensed pursuant to chapter 465 who is not licensed pursuant to this chapter or chapter 458. The committee shall establish a formulary of medicinal drugs for which a fully licensed physician assistant may~~

~~prescribe. The formulary may not include controlled substances as defined in chapter 893, antineoplastics, antipsychotics, radiopharmaceuticals, general anesthetics or radiographic contrast materials, or any parenteral preparations except insulin and epinephrine.~~

~~2. Only the committee shall add to, delete from, or modify the formulary. Any person who requests an addition, deletion, or modification of a medicinal drug listed on such formulary has the burden of proof to show cause why such addition, deletion, or modification should be made.~~

~~3. The boards shall adopt the formulary required by this paragraph, and each addition, deletion, or modification to the formulary, by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall be effective 60 days after the date it is filed with the Secretary of State. Upon adoption of the formulary, the department shall mail a copy of such formulary to each fully licensed physician assistant and to each pharmacy licensed by the state. The boards shall establish, by rule, a fee not to exceed $200 to fund the provisions of this paragraph and paragraph (e).~~

(9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the department.

(c) The council shall:

1. Recommend to the department the licensure of physician assistants.

2. Develop all rules regulating the use of physician assistants by physicians under chapter 458 and this chapter, except for rules relating to the formulary developed under s. 458.347~~(4)(f)~~. The council shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule developed by the council at the regularly scheduled meeting immediately following the submission of the proposed rule by the council. A proposed rule submitted by the council may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules submitted by the council must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules. If either board rejects the council's proposed rule, that board must specify its objection to the council with particularity and include any recommendations it may have for the modification of the proposed rule.

3. Make recommendations to the boards regarding all matters relating to physician assistants.

4. Address concerns and problems of practicing physician assistants in order to improve safety in the clinical practices of licensed physician assistants.

Section 55. Subsection (6) is added to section 456.003, Florida Statutes, to read:

456.003 Legislative intent; requirements.—

(6) Unless expressly and specifically granted in statute, the duties conferred on the boards do not include the enlargement, modification, or contravention of the lawful scope of practice of the profession regulated by the boards. This subsection shall not prohibit the boards, or the department when there is no board, from taking disciplinary action or issuing a declaratory statement.

Section 56. *(1)(a) The Agency for Health Care Administration shall create an Organ Transplant Task Force within the Agency for Health Care Administration, which task force must be funded by existing agency funds.*

(b) Task force participants shall be responsible for only the expenses that they generate individually through participation. The agency shall be responsible for expenses incidental to the production of any required data or reports.

(2) The task force shall consist of up to 15 members. The task force chairperson shall be selected by majority vote of a quorum present. Eight members shall constitute a quorum. The membership shall include, but not be limited to, a balance of members representing the Agency for Health Care Administration, health care facilities that have existing organ transplantation programs, individual organ transplant health care practitioners, pediatric organ transplantation programs, organ procurement agencies, and organ transplant recipients or family members.

(3) The task force shall meet for the purpose of studying and making recommendations regarding current and future supply of organs in relation to the number of existing organ transplantation programs and the future necessity of the issuance of a certificate of need for proposed organ transplantation programs. At a minimum, the task force shall submit a report to the Legislature which includes a summary of the methods of allocation and distribution of organs; a list of facilities performing multiple organ transplants and the number being performed; the number of Medicaid and charity care patients who have received organ transplants by existing organ transplant programs; suggested mechanisms for funding organ transplants, which shall include, but need not be limited to, an organ transplant trust fund for the treatment of Medicaid and charity patients; the impact of trends in health care delivery and financing on organ transplantation; and the number of certificates of need applications reviewed by the Agency for Health Care Administration in the last 5 years, including the number approved or denied and the number litigated.

(4) The task force shall meet at the call of the chairperson. The task force shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15, 2002. The task force is abolished effective December 31, 2002.

Section 57. Section 409.9205, Florida Statutes, is amended to read:

409.9205 Medicaid Fraud Control Unit~~; law enforcement officers~~.—

(1) Except as provided in s. 110.205, all positions in the Medicaid Fraud Control Unit of the Department of Legal Affairs are hereby transferred to the Career Service System.

(2) All investigators employed by the Medicaid Fraud Control Unit who have been certified under s. 943.1395 are law enforcement officers of the state. Such investigators have the authority to conduct criminal investigations, bear arms, make arrests, and apply for, serve, and execute search warrants, arrest warrants, capias, and other process throughout the state pertaining to Medicaid fraud as described in this chapter. The Attorney General shall provide reasonable notice of criminal investigations conducted by the Medicaid Fraud Control Unit to, and coordinate those investigations with, the sheriffs of the respective counties. ~~Investigators employed by the Medicaid Fraud Control Unit are not eligible for membership in the Special Risk Class of the Florida Retirement System under s. 121.0515.~~

Section 58. Subsection (1) of section 483.245, Florida Statutes, is amended to read:

483.245 Rebates prohibited; penalties.—

(1) It is unlawful for any person to pay or receive any commission, bonus, kickback, or rebate or engage in any split-fee arrangement in any form whatsoever with any *dialysis facility,* physician, surgeon, organization, agency, or person, either directly or indirectly, for patients referred to a clinical laboratory licensed under this part.

Section 59. Subsection (3) of section 232.435, Florida Statutes, is amended to read:

232.435 Extracurricular athletic activities; athletic trainers.—

(3)~~(a)~~ To the extent practicable, a school district program should include the following employment classification and advancement scheme:

1. *First responder - To qualify as a first responder, a person must possess a professional, temporary, part-time, adjunct, or substitute*

certificate pursuant to s. 231.17, be certified in cardiopulmonary resuscitation, first aid, and have 15 semester hours in courses such as care and prevention of athletic injuries, anatomy, physiology, nutrition, counseling, and other similar courses approved by the Commissioner of Education. This person may only administer first aid and similar care.

~~1. Teacher apprentice trainer I.—To qualify as a teacher apprentice trainer I, a person must possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 231.17, be certified in first aid and cardiopulmonary resuscitation, and have earned a minimum of 6 semester hours or the equivalent number of inservice education points in the basic prevention and care of athletic injuries.~~

~~2. Teacher apprentice trainer II.—To qualify as a teacher apprentice trainer II, a person must meet the requirements of teacher apprentice trainer I and also have earned a minimum of 15 additional semester hours or the equivalent number of inservice education points in such courses as anatomy, physiology, use of modalities, nutrition, counseling, and other courses approved by the Commissioner of Education.~~

2.~~3.~~ Teacher athletic trainer.—To qualify as a teacher athletic trainer, a person must *possess a professional, temporary, part-time, adjunct, or substitute certificate pursuant to s. 232.17, and be licensed as required by part XIII of chapter 468* ~~meet the requirements of teacher apprentice trainer II, be certified by the Department of Education or a nationally recognized athletic trainer association, and perform one or more of the following functions: preventing athletic injuries; recognizing, evaluating, managing, treating, and rehabilitating athletic injuries; administering an athletic training program; and educating and counseling athletes~~.

~~(b) If a school district uses the services of an athletic trainer who is not a teacher athletic trainer or a teacher apprentice trainer within the requirements of this section, such athletic trainer must be licensed as required by part XIII of chapter 468.~~

Section 60. Paragraph (b) of subsection (1) of section 383.14, Florida Statutes, is amended to read:

383.14 Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.—

(1) SCREENING REQUIREMENTS.—To help ensure access to the maternal and child health care system, the Department of Health shall promote the screening of all infants born in Florida for phenylketonuria and other metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect, as screening programs accepted by current medical practice become available and practical in the judgment of the department. The department shall also promote the identification and screening of all infants born in this state and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services, including, but not limited to, parent support and training programs, home visitation, and case management. Identification, perinatal screening, and intervention efforts shall begin prior to and immediately following the birth of the child by the attending health care provider. Such efforts shall be conducted in hospitals, perinatal centers, county health departments, school health programs that provide prenatal care, and birthing centers, and reported to the Office of Vital Statistics.

(b) Postnatal screening.—A risk factor analysis using the department's designated risk assessment instrument shall also be conducted as part of the medical screening process upon the birth of a child and submitted to the department's Office of Vital Statistics for recording and other purposes provided for in this chapter. The department's screening process for risk assessment shall include a scoring mechanism and procedures that establish thresholds for notification, further assessment, referral, and eligibility for services by professionals or paraprofessionals consistent with the level of risk. Procedures for developing and using the screening instrument, notification, referral, and care coordination services, reporting requirements, management information, and maintenance of a computer-driven registry in the Office of Vital Statistics which ensures privacy safeguards must be consistent with the provisions and plans established under chapter 411, Pub. L. No. 99-457, and this chapter. Procedures established for reporting information and maintaining a confidential registry must include a mechanism for a centralized information depository at the state and county levels. The department shall coordinate with existing risk assessment systems and information registries. The department must ensure, to the maximum extent possible, that the screening information registry is integrated with the department's automated data systems, including the Florida On-line Recipient Integrated Data Access (FLORIDA) system. Tests and screenings must be performed *by the State Public Health Laboratory, in coordination with Children's Medical Services,* at such times and in such manner as is prescribed by the department after consultation with the Genetics and Infant Screening Advisory Council and the State Coordinating Council for School Readiness Programs.

Section 61. Section 395.0197, Florida Statutes, is amended to read:

395.0197 Internal risk management program.—

(1) Every licensed facility shall, as a part of its administrative functions, establish an internal risk management program that includes all of the following components:

(a) The investigation and analysis of the frequency and causes of general categories and specific types of adverse incidents to patients.

(b) The development of appropriate measures to minimize the risk of adverse incidents to patients, including, but not limited to:

1. Risk management and risk prevention education and training of all nonphysician personnel as follows:

a. Such education and training of all nonphysician personnel as part of their initial orientation; and

b. At least 1 hour of such education and training annually for all ~~nonphysician~~ personnel of the licensed facility working in clinical areas and providing patient care*, except those persons licensed as health care practitioners who are required to complete continuing education coursework pursuant to chapter 456 or the respective practice act*.

2. A prohibition, except when emergency circumstances require otherwise, against a staff member of the licensed facility attending a patient in the recovery room, unless the staff member is authorized to attend the patient in the recovery room and is in the company of at least one other person. However, a licensed facility is exempt from the two-person requirement if it has:

a. Live visual observation;

b. Electronic observation; or

c. Any other reasonable measure taken to ensure patient protection and privacy.

3. A prohibition against an unlicensed person from assisting or participating in any surgical procedure unless the facility has authorized the person to do so following a competency assessment, and such assistance or participation is done under the direct and immediate supervision of a licensed physician and is not otherwise an activity that may only be performed by a licensed health care practitioner.

4. Development, implementation, and ongoing evaluation of procedures, protocols, and systems to accurately identify patients, planned procedures, and the correct site of the planned procedure so as to minimize the performance of a surgical procedure on the wrong patient, a wrong surgical procedure, a wrong-site surgical procedure, or a surgical procedure otherwise unrelated to the patient's diagnosis or medical condition.

(c) The analysis of patient grievances that relate to patient care and the quality of medical services.

(d) The development and implementation of an incident reporting system based upon the affirmative duty of all health care providers and

all agents and employees of the licensed health care facility to report adverse incidents to the risk manager, or to his or her designee, within 3 business days after their occurrence.

(2) The internal risk management program is the responsibility of the governing board of the health care facility. Each licensed facility shall hire a risk manager, licensed under *s. 395.10974* ~~part IX of chapter 626~~, who is responsible for implementation and oversight of such facility's internal risk management program as required by this section. A risk manager must not be made responsible for more than four internal risk management programs in separate licensed facilities, unless the facilities are under one corporate ownership or the risk management programs are in rural hospitals.

(3) In addition to the programs mandated by this section, other innovative approaches intended to reduce the frequency and severity of medical malpractice and patient injury claims shall be encouraged and their implementation and operation facilitated. Such additional approaches may include extending internal risk management programs to health care providers' offices and the assuming of provider liability by a licensed health care facility for acts or omissions occurring within the licensed facility.

(4) The agency shall~~, after consulting with the Department of Insurance,~~ adopt rules governing the establishment of internal risk management programs to meet the needs of individual licensed facilities. Each internal risk management program shall include the use of incident reports to be filed with an individual of responsibility who is competent in risk management techniques in the employ of each licensed facility, such as an insurance coordinator, or who is retained by the licensed facility as a consultant. The individual responsible for the risk management program shall have free access to all medical records of the licensed facility. The incident reports are part of the workpapers of the attorney defending the licensed facility in litigation relating to the licensed facility and are subject to discovery, but are not admissible as evidence in court. A person filing an incident report is not subject to civil suit by virtue of such incident report. As a part of each internal risk management program, the incident reports shall be used to develop categories of incidents which identify problem areas. Once identified, procedures shall be adjusted to correct the problem areas.

(5) For purposes of reporting to the agency pursuant to this section, the term "adverse incident" means an event over which health care personnel could exercise control and which is associated in whole or in part with medical intervention, rather than the condition for which such intervention occurred, and which:

(a) Results in one of the following injuries:

1. Death;

2. Brain or spinal damage;

3. Permanent disfigurement;

4. Fracture or dislocation of bones or joints;

5. A resulting limitation of neurological, physical, or sensory function which continues after discharge from the facility;

6. Any condition that required specialized medical attention or surgical intervention resulting from nonemergency medical intervention, other than an emergency medical condition, to which the patient has not given his or her informed consent; or

7. Any condition that required the transfer of the patient, within or outside the facility, to a unit providing a more acute level of care due to the adverse incident, rather than the patient's condition prior to the adverse incident;

(b) Was the performance of a surgical procedure on the wrong patient, a wrong surgical procedure, a wrong-site surgical procedure, or a surgical procedure otherwise unrelated to the patient's diagnosis or medical condition;

(c) Required the surgical repair of damage resulting to a patient from a planned surgical procedure, where the damage was not a recognized specific risk, as disclosed to the patient and documented through the informed-consent process; or

(d) Was a procedure to remove unplanned foreign objects remaining from a surgical procedure.

(6)(a) Each licensed facility subject to this section shall submit an annual report to the agency summarizing the incident reports that have been filed in the facility for that year. The report shall include:

1. The total number of adverse incidents.

2. A listing, by category, of the types of operations, diagnostic or treatment procedures, or other actions causing the injuries, and the number of incidents occurring within each category.

3. A listing, by category, of the types of injuries caused and the number of incidents occurring within each category.

4. A code number using the health care professional's licensure number and a separate code number identifying all other individuals directly involved in adverse incidents to patients, the relationship of the individual to the licensed facility, and the number of incidents in which each individual has been directly involved. Each licensed facility shall maintain names of the health care professionals and individuals identified by code numbers for purposes of this section.

5. A description of all malpractice claims filed against the licensed facility, including the total number of pending and closed claims and the nature of the incident which led to, the persons involved in, and the status and disposition of each claim. Each report shall update status and disposition for all prior reports.

(b) The information reported to the agency pursuant to paragraph (a) which relates to persons licensed under chapter 458, chapter 459, chapter 461, or chapter 466 shall be reviewed by the agency. The agency shall determine whether any of the incidents potentially involved conduct by a health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply.

(c) The report submitted to the agency shall also contain the name and license number of the risk manager of the licensed facility, a copy of its policy and procedures which govern the measures taken by the facility and its risk manager to reduce the risk of injuries and adverse incidents, and the results of such measures. The annual report is confidential and is not available to the public pursuant to s. 119.07(1) or any other law providing access to public records. The annual report is not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board. The annual report is not available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon written request by a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause.

(7) The licensed facility shall notify the agency no later than 1 business day after the risk manager or his or her designee has received a report pursuant to paragraph (1)(d) and can determine within 1 business day that any of the following adverse incidents has occurred, whether occurring in the licensed facility or arising from health care prior to admission in the licensed facility:

(a) The death of a patient;

(b) Brain or spinal damage to a patient;

(c) The performance of a surgical procedure on the wrong patient;

(d) The performance of a wrong-site surgical procedure; or

(e) The performance of a wrong surgical procedure.

The notification must be made in writing and be provided by facsimile device or overnight mail delivery. The notification must include information regarding the identity of the affected patient, the type of

adverse incident, the initiation of an investigation by the facility, and whether the events causing or resulting in the adverse incident represent a potential risk to other patients.

(8) Any of the following adverse incidents, whether occurring in the licensed facility or arising from health care prior to admission in the licensed facility, shall be reported by the facility to the agency within 15 calendar days after its occurrence:

(a) The death of a patient;

(b) Brain or spinal damage to a patient;

(c) The performance of a surgical procedure on the wrong patient;

(d) The performance of a wrong-site surgical procedure;

(e) The performance of a wrong surgical procedure;

(f) The performance of a surgical procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition;

(g) The surgical repair of damage resulting to a patient from a planned surgical procedure, where the damage is not a recognized specific risk, as disclosed to the patient and documented through the informed-consent process; or

(h) The performance of procedures to remove unplanned foreign objects remaining from a surgical procedure.

The agency may grant extensions to this reporting requirement for more than 15 days upon justification submitted in writing by the facility administrator to the agency. The agency may require an additional, final report. These reports shall not be available to the public pursuant to s. 119.07(1) or any other law providing access to public records, nor be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board, nor shall they be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon written request by a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause. The agency may investigate, as it deems appropriate, any such incident and prescribe measures that must or may be taken in response to the incident. The agency shall review each incident and determine whether it potentially involved conduct by the health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 shall apply.

(9) The agency shall publish on the agency's website, no less than quarterly, a summary and trend analysis of adverse incident reports received pursuant to this section, which shall not include information that would identify the patient, the reporting facility, or the health care practitioners involved. The agency shall publish on the agency's website an annual summary and trend analysis of all adverse incident reports and malpractice claims information provided by facilities in their annual reports, which shall not include information that would identify the patient, the reporting facility, or the practitioners involved. The purpose of the publication of the summary and trend analysis is to promote the rapid dissemination of information relating to adverse incidents and malpractice claims to assist in avoidance of similar incidents and reduce morbidity and mortality.

(10)~~(9)~~ The internal risk manager of each licensed facility shall:

(a) Investigate every allegation of sexual misconduct which is made against a member of the facility's personnel who has direct patient contact, when the allegation is that the sexual misconduct occurred at the facility or on the grounds of the facility.~~; and~~

(b) Report every allegation of sexual misconduct to the administrator of the licensed facility.

(c) Notify the family or guardian of the victim, if a minor, that an allegation of sexual misconduct has been made and that an investigation is being conducted.~~;~~

(d) Report to the Department of Health every allegation of sexual misconduct, as defined in chapter 456 and the respective practice act, by a licensed health care practitioner that involves a patient.

(11)~~(10)~~ Any witness who witnessed or who possesses actual knowledge of the act that is the basis of an allegation of sexual abuse shall:

(a) Notify the local police; and

(b) Notify the hospital risk manager and the administrator.

For purposes of this subsection, "sexual abuse" means acts of a sexual nature committed for the sexual gratification of anyone upon, or in the presence of, a vulnerable adult, without the vulnerable adult's informed consent, or a minor. "Sexual abuse" includes, but is not limited to, the acts defined in s. 794.011(1)(h), fondling, exposure of a vulnerable adult's or minor's sexual organs, or the use of the vulnerable adult or minor to solicit for or engage in prostitution or sexual performance. "Sexual abuse" does not include any act intended for a valid medical purpose or any act which may reasonably be construed to be a normal caregiving action.

(12)~~(11)~~ A person who, with malice or with intent to discredit or harm a licensed facility or any person, makes a false allegation of sexual misconduct against a member of a licensed facility's personnel is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(13)~~(12)~~ In addition to any penalty imposed pursuant to this section, the agency shall require a written plan of correction from the facility. For a single incident or series of isolated incidents that are nonwillful violations of the reporting requirements of this section, the agency shall first seek to obtain corrective action by the facility. If the correction is not demonstrated within the timeframe established by the agency or if there is a pattern of nonwillful violations of this section, the agency may impose an administrative fine, not to exceed $5,000 for any violation of the reporting requirements of this section. The administrative fine for repeated nonwillful violations shall not exceed $10,000 for any violation. The administrative fine for each intentional and willful violation may not exceed $25,000 per violation, per day. The fine for an intentional and willful violation of this section may not exceed $250,000. In determining the amount of fine to be levied, the agency shall be guided by s. 395.1065(2)(b). This subsection does not apply to the notice requirements under subsection (7).

(14)~~(13)~~ The agency shall have access to all licensed facility records necessary to carry out the provisions of this section. The records obtained by the agency under subsection (6), subsection (8), or subsection *(10)* ~~(9)~~ are not available to the public under s. 119.07(1), nor shall they be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or the appropriate regulatory board, nor shall records obtained pursuant to s. 456.071 be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the agency or the appropriate regulatory board. However, the agency or the appropriate regulatory board shall make available, upon written request by a health care professional against whom probable cause has been found, any such records which form the basis of the determination of probable cause, except that, with respect to medical review committee records, s. 766.101 controls.

(15)~~(14)~~ The meetings of the committees and governing board of a licensed facility held solely for the purpose of achieving the objectives of risk management as provided by this section shall not be open to the public under the provisions of chapter 286. The records of such meetings are confidential and exempt from s. 119.07(1), except as provided in subsection *(14)* ~~(13)~~.

(16)~~(15)~~ The agency shall review, as part of its licensure inspection process, the internal risk management program at each licensed facility

regulated by this section to determine whether the program meets standards established in statutes and rules, whether the program is being conducted in a manner designed to reduce adverse incidents, and whether the program is appropriately reporting incidents under *this section* ~~subsections (5), (6), (7), and (8)~~.

(17)~~(16)~~ There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any risk manager, licensed under *s. 395.10974* ~~part IX of chapter 626~~, for the implementation and oversight of the internal risk management program in a facility licensed under this chapter or chapter 390 as required by this section, for any act or proceeding undertaken or performed within the scope of the functions of such internal risk management program if the risk manager acts without intentional fraud.

(18) A privilege against civil liability is hereby granted to any licensed risk manager or licensed facility with regard to information furnished pursuant to this chapter, unless the licensed risk manager or facility acted in bad faith or with malice in providing such information.

(19)~~(17)~~ If the agency, through its receipt of *any reports required under this section* ~~the annual reports prescribed in subsection (6)~~ or through any investigation, has a reasonable belief that conduct by a staff member or employee of a licensed facility is grounds for disciplinary action by the appropriate regulatory board, the agency shall report this fact to such regulatory board.

~~(18) The agency shall annually publish a report summarizing the information contained in the annual incident reports submitted by licensed facilities pursuant to subsection (6) and disciplinary actions reported to the agency pursuant to s. 395.0193. The report must, at a minimum, summarize:~~

~~(a) Adverse incidents, by category of reported incident, and by type of professional involved.~~

~~(b) Types of malpractice claims filed, by type of professional involved.~~

~~(c) Disciplinary actions taken against professionals, by type of professional involved.~~

(20) It shall be unlawful for any person to coerce, intimidate, or preclude a risk manager from lawfully executing his or her reporting obligations pursuant to this chapter. Such unlawful action shall be subject to civil monetary penalties not to exceed $10,000 per violation.

Section 62. Section 395.10972, Florida Statutes, is amended to read:

395.10972 Health Care Risk Manager Advisory Council.—The Secretary of Health Care Administration may appoint a *seven-member* ~~five-member~~ advisory council to advise the agency on matters pertaining to health care risk managers. The members of the council shall serve at the pleasure of the secretary. The council shall designate a chair. The council shall meet at the call of the secretary or at those times as may be required by rule of the agency. The members of the advisory council shall receive no compensation for their services, but shall be reimbursed for travel expenses as provided in s. 112.061. The council shall consist of individuals representing the following areas:

(1) Two shall be active health care risk managers*, including one risk manager who is recommended by and a member of the Florida Society of Healthcare Risk Management*.

(2) One shall be an active hospital administrator.

(3) One shall be an employee of an insurer or self-insurer of medical malpractice coverage.

(4) One shall be a representative of the health-care-consuming public.

(5) Two shall be licensed health care practitioners, one of whom shall be licensed as a physician under chapter 458 or chapter 459.

Section 63. Paragraph (b) of subsection (2) of section 395.701, Florida Statutes, is amended to read:

395.701 Annual assessments on net operating revenues for inpatient *and outpatient* services to fund public medical assistance; administrative fines for failure to pay assessments when due; exemption.—

(2)

(b) There is imposed upon each hospital an assessment in an amount equal to 1 percent of the annual net operating revenue for outpatient services for each hospital, such revenue to be determined by the agency, based on the actual experience of the hospital as reported to the agency. *While prior year report worksheets may be reconciled to the hospital's audited financial statements, no additional audited financial components may be required for the purposes of determining the amount of the assessment imposed pursuant to this section other than those in effect on July 1, 2000.* Within 6 months after the end of each hospital fiscal year, the agency shall certify the amount of the assessment for each hospital. The assessment shall be payable to and collected by the agency in equal quarterly amounts, on or before the first day of each calendar quarter, beginning with the first full calendar quarter that occurs after the agency certifies the amount of the assessment for each hospital. All moneys collected pursuant to this subsection shall be deposited into the Public Medical Assistance Trust Fund.

Section 64. Section 409.905, Florida Statutes, is amended to read:

409.905 Mandatory Medicaid services.—The agency may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be provided only when medically necessary and in accordance with state and federal law. *Mandatory services rendered by providers in mobile units to Medicaid recipients may be restricted by the agency.* Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, number of services, or any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216.

(1) ADVANCED REGISTERED NURSE PRACTITIONER SERVICES.—The agency shall pay for services provided to a recipient by a licensed advanced registered nurse practitioner who has a valid collaboration agreement with a licensed physician on file with the Department of Health or who provides anesthesia services in accordance with established protocol required by state law and approved by the medical staff of the facility in which the anesthetic service is performed. Reimbursement for such services must be provided in an amount that equals not less than 80 percent of the reimbursement to a physician who provides the same services, unless otherwise provided for in the General Appropriations Act.

(2) EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT SERVICES.—The agency shall pay for early and periodic screening and diagnosis of a recipient under age 21 to ascertain physical and mental problems and conditions and provide treatment to correct or ameliorate these problems and conditions. These services include all services determined by the agency to be medically necessary for the treatment, correction, or amelioration of these problems, including personal care, private duty nursing, durable medical equipment, physical therapy, occupational therapy, speech therapy, respiratory therapy, and immunizations.

(3) FAMILY PLANNING SERVICES.—The agency shall pay for services necessary to enable a recipient voluntarily to plan family size or to space children. These services include information; education; counseling regarding the availability, benefits, and risks of each method of pregnancy prevention; drugs and supplies; and necessary medical care and followup. Each recipient participating in the family planning portion of the Medicaid program must be provided freedom to choose any alternative method of family planning, as required by federal law.

(4) HOME HEALTH CARE SERVICES.—The agency shall pay for nursing and home health aide services, supplies, appliances, and

durable medical equipment, necessary to assist a recipient living at home. An entity that provides services pursuant to this subsection shall be licensed under part IV of chapter 400 or part II of chapter 499, if appropriate. These services, equipment, and supplies, or reimbursement therefor, may be limited as provided in the General Appropriations Act and do not include services, equipment, or supplies provided to a person residing in a hospital or nursing facility. In providing home health care services, the agency may require prior authorization of care based on diagnosis.

(5) HOSPITAL INPATIENT SERVICES.—The agency shall pay for all covered services provided for the medical care and treatment of a recipient who is admitted as an inpatient by a licensed physician or dentist to a hospital licensed under part I of chapter 395. However, the agency shall limit the payment for inpatient hospital services for a Medicaid recipient 21 years of age or older to 45 days or the number of days necessary to comply with the General Appropriations Act.

(a) The agency is authorized to implement reimbursement and utilization management reforms in order to comply with any limitations or directions in the General Appropriations Act, which may include, but are not limited to: prior authorization for inpatient psychiatric days; enhanced utilization and concurrent review programs for highly utilized services; reduction or elimination of covered days of service; adjusting reimbursement ceilings for variable costs; adjusting reimbursement ceilings for fixed and property costs; and implementing target rates of increase.

(b) A licensed hospital maintained primarily for the care and treatment of patients having mental disorders or mental diseases is not eligible to participate in the hospital inpatient portion of the Medicaid program except as provided in federal law. However, the department shall apply for a waiver, within 9 months after June 5, 1991, designed to provide hospitalization services for mental health reasons to children and adults in the most cost-effective and lowest cost setting possible. Such waiver shall include a request for the opportunity to pay for care in hospitals known under federal law as "institutions for mental disease" or "IMD's." The waiver proposal shall propose no additional aggregate cost to the state or Federal Government, and shall be conducted in Hillsborough County, Highlands County, Hardee County, Manatee County, and Polk County. The waiver proposal may incorporate competitive bidding for hospital services, comprehensive brokering, prepaid capitated arrangements, or other mechanisms deemed by the department to show promise in reducing the cost of acute care and increasing the effectiveness of preventive care. When developing the waiver proposal, the department shall take into account price, quality, accessibility, linkages of the hospital to community services and family support programs, plans of the hospital to ensure the earliest discharge possible, and the comprehensiveness of the mental health and other health care services offered by participating providers.

(c) Agency for Health Care Administration shall adjust a hospital's current inpatient per diem rate to reflect the cost of serving the Medicaid population at that institution if:

1. The hospital experiences an increase in Medicaid caseload by more than 25 percent in any year, primarily resulting from the closure of a hospital in the same service area occurring after July 1, 1995; or

2. The hospital's Medicaid per diem rate is at least 25 percent below the Medicaid per patient cost for that year.

No later than November 1, 2000, the agency must provide estimated costs for any adjustment in a hospital inpatient per diem pursuant to this paragraph to the Executive Office of the Governor, the House of Representatives General Appropriations Committee, and the Senate Budget Committee. Before the agency implements a change in a hospital's inpatient per diem rate pursuant to this paragraph, the Legislature must have specifically appropriated sufficient funds in the 2001-2002 General Appropriations Act to support the increase in cost as estimated by the agency. This paragraph is repealed on July 1, 2001.

(6) HOSPITAL OUTPATIENT SERVICES.—The agency shall pay for preventive, diagnostic, therapeutic, or palliative care and other services provided to a recipient in the outpatient portion of a hospital licensed under part I of chapter 395, and provided under the direction of a licensed physician or licensed dentist, except that payment for such care and services is limited to $1,500 per state fiscal year per recipient, unless an exception has been made by the agency, and with the exception of a Medicaid recipient under age 21, in which case the only limitation is medical necessity.

(7) INDEPENDENT LABORATORY SERVICES.—The agency shall pay for medically necessary diagnostic laboratory procedures ordered by a licensed physician or other licensed practitioner of the healing arts which are provided for a recipient in a laboratory that meets the requirements for Medicare participation and is licensed under chapter 483, if required.

(8) NURSING FACILITY SERVICES.—The agency shall pay for 24-hour-a-day nursing and rehabilitative services for a recipient in a nursing facility licensed under part II of chapter 400 or in a rural hospital, as defined in s. 395.602, or in a Medicare certified skilled nursing facility operated by a hospital, as defined by s. 395.002(11), that is licensed under part I of chapter 395, and in accordance with provisions set forth in s. 409.908(2)(a), which services are ordered by and provided under the direction of a licensed physician. However, if a nursing facility has been destroyed or otherwise made uninhabitable by natural disaster or other emergency and another nursing facility is not available, the agency must pay for similar services temporarily in a hospital licensed under part I of chapter 395 provided federal funding is approved and available.

(9) PHYSICIAN SERVICES.—The agency shall pay for covered services and procedures rendered to a recipient by, or under the personal supervision of, a person licensed under state law to practice medicine or osteopathic medicine. These services may be furnished in the physician's office, the Medicaid recipient's home, a hospital, a nursing facility, or elsewhere, but shall be medically necessary for the treatment of an injury, illness, or disease within the scope of the practice of medicine or osteopathic medicine as defined by state law. The agency shall not pay for services that are clinically unproven, experimental, or for purely cosmetic purposes.

(10) PORTABLE X-RAY SERVICES.—The agency shall pay for professional and technical portable radiological services ordered by a licensed physician or other licensed practitioner of the healing arts which are provided by a licensed professional in a setting other than a hospital, clinic, or office of a physician or practitioner of the healing arts, on behalf of a recipient.

(11) RURAL HEALTH CLINIC SERVICES.—The agency shall pay for outpatient primary health care services for a recipient provided by a clinic certified by and participating in the Medicare program which is located in a federally designated, rural, medically underserved area and has on its staff one or more licensed primary care nurse practitioners or physician assistants, and a licensed staff supervising physician or a consulting supervising physician.

(12) TRANSPORTATION SERVICES.—The agency shall ensure that appropriate transportation services are available for a Medicaid recipient in need of transport to a qualified Medicaid provider for medically necessary and Medicaid-compensable services, provided a client's ability to choose a specific transportation provider shall be limited to those options resulting from policies established by the agency to meet the fiscal limitations of the General Appropriations Act. The agency may pay for transportation and other related travel expenses as necessary only if these services are not otherwise available.

Section 65. Section 409.906, Florida Statutes, is amended to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. *Optional services rendered*

by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(1) ADULT DENTURE SERVICES.—The agency may pay for dentures, the procedures required to seat dentures, and the repair and reline of dentures, provided by or under the direction of a licensed dentist, for a recipient who is age 21 or older. *However, Medicaid will not provide reimbursement for dental services provided in a mobile dental unit, except for a mobile dental unit:*

(a) Owned by, operated by, or having a contractual agreement with the Department of Health and complying with Medicaid's county health department clinic services program specifications as a county health department clinic services provider.

(b) Owned by, operated by, or having a contractual arrangement with a federally qualified health center and complying with Medicaid's federally qualified health center specifications as a federally qualified health center provider.

(c) Rendering dental services to Medicaid recipients, 21 years of age and older, at nursing facilities.

(d) Owned by, operated by, or having a contractual agreement with a state-approved dental educational institution.

(2) ADULT HEALTH SCREENING SERVICES.—The agency may pay for an annual routine physical examination, conducted by or under the direction of a licensed physician, for a recipient age 21 or older, without regard to medical necessity, in order to detect and prevent disease, disability, or other health condition or its progression.

(3) AMBULATORY SURGICAL CENTER SERVICES.—The agency may pay for services provided to a recipient in an ambulatory surgical center licensed under part I of chapter 395, by or under the direction of a licensed physician or dentist.

(4) BIRTH CENTER SERVICES.—The agency may pay for examinations and delivery, recovery, and newborn assessment, and related services, provided in a licensed birth center staffed with licensed physicians, certified nurse midwives, and midwives licensed in accordance with chapter 467, to a recipient expected to experience a low-risk pregnancy and delivery.

(5) CASE MANAGEMENT SERVICES.—The agency may pay for primary care case management services rendered to a recipient pursuant to a federally approved waiver, and targeted case management services for specific groups of targeted recipients, for which funding has been provided and which are rendered pursuant to federal guidelines. The agency is authorized to limit reimbursement for targeted case management services in order to comply with any limitations or directions provided for in the General Appropriations Act. Notwithstanding s. 216.292, the Department of Children and Family Services may transfer general funds to the Agency for Health Care Administration to fund state match requirements exceeding the amount specified in the General Appropriations Act for targeted case management services.

(6) CHILDREN'S DENTAL SERVICES.—The agency may pay for diagnostic, preventive, or corrective procedures, including orthodontia in severe cases, provided to a recipient under age 21, by or under the supervision of a licensed dentist. Services provided under this program include treatment of the teeth and associated structures of the oral cavity, as well as treatment of disease, injury, or impairment that may affect the oral or general health of the individual. *However, Medicaid will not provide reimbursement for dental services provided in a mobile dental unit, except for a mobile dental unit:*

(a) Owned by, operated by, or having a contractual agreement with the Department of Health and complying with Medicaid's county health department clinic services program specifications as a county health department clinic services provider.

(b) Owned by, operated by, or having a contractual arrangement with a federally qualified health center and complying with Medicaid's federally qualified health center specifications as a federally qualified health center provider.

(c) Rendering dental services to Medicaid recipients, 21 years of age and older, at nursing facilities.

(d) Owned by, operated by, or having a contractual agreement with a state-approved dental educational institution.

(7) CHIROPRACTIC SERVICES.—The agency may pay for manual manipulation of the spine and initial services, screening, and X rays provided to a recipient by a licensed chiropractic physician.

(8) COMMUNITY MENTAL HEALTH SERVICES.—The agency may pay for rehabilitative services provided to a recipient by a mental health or substance abuse provider licensed by the agency and under contract with the agency or the Department of Children and Family Services to provide such services. Those services which are psychiatric in nature shall be rendered or recommended by a psychiatrist, and those services which are medical in nature shall be rendered or recommended by a physician or psychiatrist. The agency must develop a provider enrollment process for community mental health providers which bases provider enrollment on an assessment of service need. The provider enrollment process shall be designed to control costs, prevent fraud and abuse, consider provider expertise and capacity, and assess provider success in managing utilization of care and measuring treatment outcomes. Providers will be selected through a competitive procurement or selective contracting process. In addition to other community mental health providers, the agency shall consider for enrollment mental health programs licensed under chapter 395 and group practices licensed under chapter 458, chapter 459, chapter 490, or chapter 491. The agency is also authorized to continue operation of its behavioral health utilization management program and may develop new services if these actions are necessary to ensure savings from the implementation of the utilization management system. The agency shall coordinate the implementation of this enrollment process with the Department of Children and Family Services and the Department of Juvenile Justice. The agency is authorized to utilize diagnostic criteria in setting reimbursement rates, to preauthorize certain high-cost or highly utilized services, to limit or eliminate coverage for certain services, or to make any other adjustments necessary to comply with any limitations or directions provided for in the General Appropriations Act.

(9) DIALYSIS FACILITY SERVICES.—Subject to specific appropriations being provided for this purpose, the agency may pay a dialysis facility that is approved as a dialysis facility in accordance with Title XVIII of the Social Security Act, for dialysis services that are provided to a Medicaid recipient under the direction of a physician licensed to practice medicine or osteopathic medicine in this state, including dialysis services provided in the recipient's home by a hospital-based or freestanding dialysis facility.

(10) DURABLE MEDICAL EQUIPMENT.—The agency may authorize and pay for certain durable medical equipment and supplies provided to a Medicaid recipient as medically necessary.

(11) HEALTHY START SERVICES.—The agency may pay for a continuum of risk-appropriate medical and psychosocial services for the Healthy Start program in accordance with a federal waiver. The agency may not implement the federal waiver unless the waiver permits the state to limit enrollment or the amount, duration, and scope of services to ensure that expenditures will not exceed funds appropriated by the Legislature or available from local sources. If the Health Care Financing Administration does not approve a federal waiver for Healthy Start

services, the agency, in consultation with the Department of Health and the Florida Association of Healthy Start Coalitions, is authorized to establish a Medicaid certified-match program for Healthy Start services. Participation in the Healthy Start certified-match program shall be voluntary, and reimbursement shall be limited to the federal Medicaid share to Medicaid-enrolled Healthy Start coalitions for services provided to Medicaid recipients. The agency shall take no action to implement a certified-match program without ensuring that the amendment and review requirements of ss. 216.177 and 216.181 have been met.

(12) HEARING SERVICES.—The agency may pay for hearing and related services, including hearing evaluations, hearing aid devices, dispensing of the hearing aid, and related repairs, if provided to a recipient by a licensed hearing aid specialist, otolaryngologist, otologist, audiologist, or physician.

(13) HOME AND COMMUNITY-BASED SERVICES.—The agency may pay for home-based or community-based services that are rendered to a recipient in accordance with a federally approved waiver program.

(14) HOSPICE CARE SERVICES.—The agency may pay for all reasonable and necessary services for the palliation or management of a recipient's terminal illness, if the services are provided by a hospice that is licensed under part VI of chapter 400 and meets Medicare certification requirements.

(15) INTERMEDIATE CARE FACILITY FOR THE DEVELOPMENTALLY DISABLED SERVICES.—The agency may pay for health-related care and services provided on a 24-hour-a-day basis by a facility licensed and certified as a Medicaid Intermediate Care Facility for the Developmentally Disabled, for a recipient who needs such care because of a developmental disability.

(16) INTERMEDIATE CARE SERVICES.—The agency may pay for 24-hour-a-day intermediate care nursing and rehabilitation services rendered to a recipient in a nursing facility licensed under part II of chapter 400, if the services are ordered by and provided under the direction of a physician.

(17) OPTOMETRIC SERVICES.—The agency may pay for services provided to a recipient, including examination, diagnosis, treatment, and management, related to ocular pathology, if the services are provided by a licensed optometrist or physician.

(18) PHYSICIAN ASSISTANT SERVICES.—The agency may pay for all services provided to a recipient by a physician assistant licensed under s. 458.347 or s. 459.022. Reimbursement for such services must be not less than 80 percent of the reimbursement that would be paid to a physician who provided the same services.

(19) PODIATRIC SERVICES.—The agency may pay for services, including diagnosis and medical, surgical, palliative, and mechanical treatment, related to ailments of the human foot and lower leg, if provided to a recipient by a podiatric physician licensed under state law.

(20) PRESCRIBED DRUG SERVICES.—The agency may pay for medications that are prescribed for a recipient by a physician or other licensed practitioner of the healing arts authorized to prescribe medications and that are dispensed to the recipient by a licensed pharmacist or physician in accordance with applicable state and federal law.

(21) REGISTERED NURSE FIRST ASSISTANT SERVICES.—The agency may pay for all services provided to a recipient by a registered nurse first assistant as described in s. 464.027. Reimbursement for such services may not be less than 80 percent of the reimbursement that would be paid to a physician providing the same services.

(22) STATE HOSPITAL SERVICES.—The agency may pay for all-inclusive psychiatric inpatient hospital care provided to a recipient age 65 or older in a state mental hospital.

(23) VISUAL SERVICES.—The agency may pay for visual examinations, eyeglasses, and eyeglass repairs for a recipient, if they are prescribed by a licensed physician specializing in diseases of the eye or by a licensed optometrist.

(24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.—The Agency for Health Care Administration, in consultation with the Department of Children and Family Services, may establish a targeted case-management pilot project in those counties identified by the Department of Children and Family Services and for the community-based child welfare project in Sarasota and Manatee counties, as authorized under s. 409.1671. These projects shall be established for the purpose of determining the impact of targeted case management on the child welfare program and the earnings from the child welfare program. Results of the pilot projects shall be reported to the Child Welfare Estimating Conference and the Social Services Estimating Conference established under s. 216.136. The number of projects may not be increased until requested by the Department of Children and Family Services, recommended by the Child Welfare Estimating Conference and the Social Services Estimating Conference, and approved by the Legislature. The covered group of individuals who are eligible to receive targeted case management include children who are eligible for Medicaid; who are between the ages of birth through 21; and who are under protective supervision or postplacement supervision, under foster-care supervision, or in shelter care or foster care. The number of individuals who are eligible to receive targeted case management shall be limited to the number for whom the Department of Children and Family Services has available matching funds to cover the costs. The general revenue funds required to match the funds for services provided by the community-based child welfare projects are limited to funds available for services described under s. 409.1671. The Department of Children and Family Services may transfer the general revenue matching funds as billed by the Agency for Health Care Administration.

Section 66. Subsections (7) through (11) of section 456.013, Florida Statutes, are renumbered as subsections (8) through (12), respectively, and a new subsection (7) is added to said section to read:

456.013 Department; general licensing provisions.—

(7) The boards, or the department when there is no board, shall require the completion of a 2-hour course relating to prevention of medical errors as part of the licensure and renewal process. The 2-hour course shall count towards the total number of continuing education hours required for the profession. The course shall be approved by the board or department, as appropriate, and shall include a study of root-cause analysis, error reduction and prevention, and patient safety. If the course is being offered by a facility licensed pursuant to chapter 395 for its employees, the board may approve up to 1 hour of the 2-hour course to be specifically related to error reduction and prevention methods used in that facility.

Section 67. Subsection (19) is added to section 456.057, Florida Statutes, to read:

456.057 Ownership and control of patient records; report or copies of records to be furnished.—

(19) The board, or department when there is no board, may temporarily or permanently appoint a person or entity as a custodian of medical records in the event of the death of a practitioner, the mental or physical incapacitation of the practitioner, or the abandonment of medical records by a practitioner. The custodian appointed shall comply with all provisions of this section, including the release of patient records.

Section 68. Subsection (3) is added to section 456.063, Florida Statutes, to read:

456.063 Sexual misconduct; disqualification for license, certificate, or registration*; reports of allegation of sexual misconduct*.—

(3) Licensed health care practitioners shall report allegations of sexual misconduct to the department, regardless of the practice setting in which the alleged sexual misconduct occurred.

Section 69. Paragraphs (c) and (q) of subsection (1) of section 456.072, Florida Statutes, are amended, paragraphs (aa), (bb), and (cc)

are added to said subsection, paragraphs (c), (d), and (e) of subsection (2) and subsection (4) are amended, and paragraphs (i) and (j) are added to subsection (2) of said section, to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(c) Being convicted or found guilty of, or entering a plea of *guilty or* nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

(q) Violating ~~any provision of this chapter, the applicable professional practice act, a rule of the department or the board, or~~ a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

(aa) Performing or attempting to perform health care services on the wrong patient, a wrong-site procedure, a wrong procedure, or an unauthorized procedure or a procedure that is medically unnecessary or otherwise unrelated to the patient's diagnosis or medical condition. For the purposes of this paragraph, performing or attempting to perform health care services includes the preparation of the patient.

(bb) Leaving a foreign body in a patient, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or other diagnostic procedures. For the purposes of this paragraph, it shall be legally presumed that retention of a foreign body is not in the best interest of the patient and is not within the standard of care of the profession, regardless of the intent of the professional.

(cc) Violating any provision of this chapter, the applicable practice act, or any rules adopted pursuant thereto.

(2) When the board, or the department when there is no board, finds any person guilty of the grounds set forth in subsection (1) or of any grounds set forth in the applicable practice act, including conduct constituting a substantial violation of subsection (1) or a violation of the applicable practice act which occurred prior to obtaining a license, it may enter an order imposing one or more of the following penalties:

(c) Restriction of practice or license*, including, but not limited to, restricting the licensee from practicing in certain settings, restricting the licensee to work only under designated conditions or in certain settings, restricting the licensee from performing or providing designated clinical and administrative services, restricting the licensee from practicing more than a designated number of hours, or any other restriction found to be necessary for the protection of the public health, safety, and welfare*.

(d) Imposition of an administrative fine not to exceed $10,000 for each count or separate offense. *If the violation is for fraud or making a false or fraudulent representation, the board, or the department if there is no board, must impose a fine of $10,000 per count or offense.*

(e) Issuance of a reprimand *or letter of concern*.

(i) Refund of fees billed and collected from the patient or a third party on behalf of the patient.

(j) Requirement that the practitioner undergo remedial education.

In determining what action is appropriate, the board, or department when there is no board, must first consider what sanctions are necessary to protect the public or to compensate the patient. Only after those sanctions have been imposed may the disciplining authority consider and include in the order requirements designed to rehabilitate the practitioner. All costs associated with compliance with orders issued under this subsection are the obligation of the practitioner.

(4) In addition to any other discipline imposed *through final order, or citation, entered on or after July 1, 2001,* pursuant to this section or discipline imposed *through final order, or citation, entered on or after July 1, 2001,* for a violation of any practice act, the board, or the department when there is no board, *shall* ~~may~~ assess costs related to the investigation and prosecution of the case. In any case where the board or the department imposes a fine or assessment and the fine or assessment is not paid within a reasonable time, such reasonable time to be prescribed in the rules of the board, or the department when there is no board, or in the order assessing such fines or costs, the department or the Department of Legal Affairs may contract for the collection of, or bring a civil action to recover, the fine or assessment.

Section 70. Paragraphs (a) and (c) of subsection (9) of section 456.073, Florida Statutes, are amended, and, effective upon this act becoming a law, subsection (13) is added to said section, to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(9)(a) The department shall periodically notify the person who filed the complaint*, as well as the patient or the patient's legal representative,* of the status of the investigation, indicating whether probable cause has been found and the status of any civil action or administrative proceeding or appeal.

(c) In any disciplinary case for which probable cause is not found, the department shall so inform the person who filed the complaint and notify that person that he or she may, within 60 days, provide any additional information to the *department* ~~probable cause panel~~ which may be relevant to the decision. *To facilitate the provision of additional information, the person who filed the complaint may receive, upon request, a copy of the department's expert report that supported the recommendation for closure, if such a report was relied upon by the department. In no way does this require the department to procure an expert opinion or report if none was used. Additionally, the identity of the expert shall remain confidential.* In any administrative proceeding under s. 120.57, the person who filed the disciplinary complaint shall have the right to present oral or written communication relating to the alleged disciplinary violations or to the appropriate penalty.

(13) Notwithstanding any provision of law to the contrary, an administrative complaint against a licensee shall be filed within 6 years after the time of the incident or occurrence giving rise to the complaint against the licensee. If such incident or occurrence involved criminal actions, diversion of controlled substances, sexual misconduct, or impairment by the licensee, this subsection does not apply to bar initiation of an investigation or filing of an administrative complaint beyond the 6-year timeframe. In those cases covered by this subsection in which it can be shown that fraud, concealment, or intentional misrepresentation of fact prevented the discovery of the violation of law, the period of limitations is extended forward, but in no event to exceed 12 years after the time of the incident or occurrence.

Section 71. Subsection (1) of section 456.074, Florida Statutes, is amended to read:

456.074 Certain health care practitioners; immediate suspension of license.—

(1) The department shall issue an emergency order suspending the license of any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466, or chapter 484 who pleads guilty to, is convicted or found guilty of, or who enters a plea of nolo contendere to, regardless of adjudication, a felony under chapter 409*, chapter 817,* or chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396.

Section 72. Subsections (2) and (6) of section 456.077, Florida Statutes, are amended to read:

456.077 Authority to issue citations.—

(2) The board, or the department if there is no board, shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare. *Violations for which a citation may be issued shall include violations of continuing education requirements, failure to timely pay required fees and fines, failure to comply with the requirements of ss. 381.026 and*

381.0261 regarding the dissemination of information regarding patient rights, failure to comply with advertising requirements, failure to timely update practitioner profile and credentialing files, failure to display signs, licenses, and permits, failure to have required reference books available, and all other violations that do not pose a direct and serious threat to the health and safety of the patient.

(6) A board ~~created on or after January 1, 1992,~~ has 6 months in which to enact rules designating violations and penalties appropriate for citation offenses. Failure to enact such rules gives the department exclusive authority to adopt rules as required for implementing this section. A board has continuous authority to amend its rules adopted pursuant to this section.

Section 73. Section 456.081, Florida Statutes, is amended to read:

456.081 Publication of information.—The department and the boards shall have the authority to advise licensees periodically, through the publication of a newsletter, about information that the department or the board determines is of interest to the industry. *The department and the boards shall maintain a website which contains copies of the newsletter; information relating to adverse incident reports without identifying the patient, practitioner, or facility in which the adverse incident occurred until 10 days after probable cause is found, at which time the name of the practitioner and facility shall become public as part of the investigative file; information about error prevention and safety strategies; and information concerning best practices.* Unless otherwise prohibited by law, the department and the boards shall publish *on the website* a summary of final orders *entered after July 1, 2001,* resulting in *disciplinary action* ~~fines, suspensions, or revocations~~, and any other information the department or the board determines is of interest to the public. *In order to provide useful and timely information at minimal cost, the department and boards may consult with, and include information provided by, professional associations and national organizations.*

Section 74. Subsections (1) and (2) of section 458.315, Florida Statutes, are amended to read:

458.315 Temporary certificate for practice in areas of critical need.—Any physician who is licensed to practice in any other state, whose license is currently valid, and who pays an application fee of $300 may be issued a temporary certificate to practice in communities of Florida where there is a critical need for physicians. A certificate may be issued to a physician who will be employed by a county health department, correctional facility, community health center funded by s. 329, s. 330, or s. 340 of the United States Public Health Services Act, or other entity that provides health care to indigents and that is approved by the State Health Officer. The Board of Medicine may issue this temporary certificate with the following restrictions:

(1) The board shall determine the areas of critical need, and the physician so certified may practice in any of those areas for a time to be determined by the board. Such areas shall include, but not be limited to, health professional shortage areas designated by the United States Department of Health and Human Services.

(a) A recipient of a temporary certificate for practice in areas of critical need may use the license to work for any approved employer in any area of critical need approved by the board.

(b) The recipient of a temporary certificate for practice in areas of critical need shall, within 30 days after accepting employment, notify the board of all approved institutions in which the licensee practices and of all approved institutions where practice privileges have been denied.

(c) A physician practicing under a temporary certificate is immune from civil liability for any act or omission by such physician which results in personal injury or property damage if:

1. The physician was acting in good faith within the scope of his or her duties and was acting as an ordinary reasonably prudent person would have acted under the same or similar circumstances; and

2. The injury or damage was not caused by any wanton or willful misconduct on the part of the physician in the performance of such duties.

(2) The board may administer an abbreviated oral examination to determine the physician's competency, but no written regular examination is necessary. *Within 60 days after receipt of an application for a temporary certificate, the board shall review the application and issue the temporary certificate or notify the applicant of denial.*

Section 75. Section 458.3147, Florida Statutes, is created to read:

458.3147 Medical school eligibility of military academy students or graduates.—Any Florida resident who is a student at or a graduate of any of the United States military academies who qualifies for assignment to the Medical Corps of the United States military shall be admitted to any medical school in the State University System.

Section 76. Subsection (9) of section 458.331, Florida Statutes, is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(9) When an investigation of a physician is undertaken, the department shall promptly furnish to the physician or the physician's attorney a copy of the complaint or document which resulted in the initiation of the investigation. For purposes of this subsection, such documents include, but are not limited to: the pertinent portions of an annual report submitted to the department pursuant to s. 395.0197(6); a report of an adverse incident which is provided to the department pursuant to s. 395.0197~~(8)~~; a report of peer review disciplinary action submitted to the department pursuant to s. 395.0193(4) or s. 458.337, providing that the investigations, proceedings, and records relating to such peer review disciplinary action shall continue to retain their privileged status even as to the licensee who is the subject of the investigation, as provided by ss. 395.0193(8) and 458.337(3); a report of a closed claim submitted pursuant to s. 627.912; a presuit notice submitted pursuant to s. 766.106(2); and a petition brought under the Florida Birth-Related Neurological Injury Compensation Plan, pursuant to s. 766.305(2). The physician may submit a written response to the information contained in the complaint or document which resulted in the initiation of the investigation within 45 days after service to the physician of the complaint or document. The physician's written response shall be considered by the probable cause panel.

Section 77. Subsection (9) of section 459.015, Florida Statutes, is amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(9) When an investigation of an osteopathic physician is undertaken, the department shall promptly furnish to the osteopathic physician or his or her attorney a copy of the complaint or document which resulted in the initiation of the investigation. For purposes of this subsection, such documents include, but are not limited to: the pertinent portions of an annual report submitted to the department pursuant to s. 395.0197(6); a report of an adverse incident which is provided to the department pursuant to s. 395.0197~~(8)~~; a report of peer review disciplinary action submitted to the department pursuant to s. 395.0193(4) or s. 459.016, provided that the investigations, proceedings, and records relating to such peer review disciplinary action shall continue to retain their privileged status even as to the licensee who is the subject of the investigation, as provided by ss. 395.0193(8) and 459.016(3); a report of a closed claim submitted pursuant to s. 627.912; a /resuit notice submitted pursuant to s. 766.106(2); and a petition brought under the Florida Birth-Related Neurological Injury Compensation Plan, pursuant to s. 766.305(2). The osteopathic physician may submit a written response to the information contained in the complaint or document which resulted in the initiation of the investigation within 45 days after service to the osteopathic physician of the complaint or document. The osteopathic physician's written response shall be considered by the probable cause panel.

Section 78. Effective January 1, 2002, subsection (4) of section 641.51, Florida Statutes, is amended to read:

641.51 Quality assurance program; second medical opinion requirement.—

(4) The organization shall ensure that only a physician *with an active, unencumbered license* ~~licensed~~ under chapter 458 or chapter 459~~, or an allopathic or osteopathic physician with an active, unencumbered license in another state with similar licensing requirements~~ may render an adverse determination regarding a service provided by a physician licensed in this state. The organization shall submit to the treating provider and the subscriber written notification regarding the organization's adverse determination within 2 working days after the subscriber or provider is notified of the adverse determination. The written notification must include the utilization review criteria or benefits provisions used in the adverse determination, identify the physician who rendered the adverse determination, and be signed by an authorized representative of the organization or the physician who rendered the adverse determination. The organization must include with the notification of an adverse determination information concerning the appeal process for adverse determinations. *This provision does not create authority for the Board of Medicine or Board of Osteopathic Medicine to regulate the organization; however, the Board of Medicine and the Board of Osteopathic Medicine continue to have jurisdiction over licensees of their respective boards.*

Section 79. Subsection (5) of section 465.019, Florida Statutes, is amended to read:

465.019 Institutional pharmacies; permits.—

(5) All institutional pharmacies shall be under the professional supervision of a consultant pharmacist, and the compounding and dispensing of medicinal drugs shall be done only by a licensed pharmacist. *Every institutional pharmacy that employs or otherwise utilizes pharmacy technicians shall have a written policy and procedures manual specifying those duties, tasks, and functions which a pharmacy technician is allowed to perform.*

Section 80. Section 465.0196, Florida Statutes, is amended to read:

465.0196 Special pharmacy permits.—Any person desiring a permit to operate a pharmacy which does not fall within the definitions set forth in s. 465.003(11)(a)1., 2., and 3. shall apply to the department for a special pharmacy permit. If the board certifies that the application complies with the applicable laws and rules of the board governing the practice of the profession of pharmacy, the department shall issue the permit. No permit shall be issued unless a licensed pharmacist is designated to undertake the professional supervision of the compounding and dispensing of all drugs dispensed by the pharmacy. The licensed pharmacist shall be responsible for maintaining all drug records and for providing for the security of the area in the facility in which the compounding, storing, and dispensing of medicinal drugs occurs. The permittee shall notify the department within 10 days of any change of the licensed pharmacist responsible for such duties. *Every permittee that employs or otherwise utilizes pharmacy technicians shall have a written policy and procedures manual specifying those duties, tasks, and functions which a pharmacy technician is allowed to perform.*

Section 81. Effective upon this act becoming a law and operating retroactively to July 1, 2000, section 22 of Chapter 2000-256, Laws of Florida, is amended to read:

Section 22. The amendments to ss. 395.701 and 395.7015, Florida Statutes, by this act shall take effect *July 1, 2000* ~~only upon the Agency for Health Care Administration receiving written confirmation from the federal Health Care Financing Administration that the changes contained in such amendments will not adversely affect the use of the remaining assessments as state match for the state's Medicaid program.~~

Section 82. *The Department of Health and the Agency for Health Care Administration shall conduct a review of all statutorily imposed reporting requirements for health care practitioners and health facilities. The department and the agency shall report back to the Legislature on or before November 1, 2001, with recommendations and suggested statutory changes to streamline reporting requirements to avoid duplicative, overlapping, and unnecessary reports or data elements.*

Section 83. Paragraph (r) is added to subsection (1) of section 468.1755, Florida Statutes, and, for the purpose of incorporating the amendment to section 456.072(1), Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of said section is reenacted, to read:

468.1755 Disciplinary proceedings.—

(1) The following acts shall constitute grounds for which the disciplinary actions in subsection (2) may be taken:

(a) Violation of any provision of s. 456.072(1) or s. 468.1745(1).

(r) Failing to implement an ongoing quality assurance program directed by an interdisciplinary team that meets at least every other month.

(2) When the board finds any nursing home administrator guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

(d) Issuance of a reprimand.

(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the licensee to attend continuing education courses or to work under the supervision of another licensee.

(f) Restriction of the authorized scope of practice.

Section 84. For the purpose of incorporating the amendment to section 468.1755(1), Florida Statutes, in reference thereto, subsection (3) of section 468.1695, Florida Statutes, and section 468.1735, Florida Statutes, are reenacted to read:

468.1695 Licensure by examination.—

(3) The department shall issue a license to practice nursing home administration to any applicant who successfully completes the examination in accordance with this section and otherwise meets the requirements of this part. The department shall not issue a license to any applicant who is under investigation in this state or another jurisdiction for an offense which would constitute a violation of s. 468.1745 or s. 468.1755. Upon completion of the investigation, the provisions of s. 468.1755 shall apply.

468.1735 Provisional license.—The board may establish by rule requirements for issuance of a provisional license. A provisional license shall be issued only to fill a position of nursing home administrator that unexpectedly becomes vacant due to illness, sudden death of the administrator, or abandonment of position and shall be issued for one single period as provided by rule not to exceed 6 months. The department shall not issue a provisional license to any applicant who is under investigation in this state or another jurisdiction for an offense which would constitute a violation of s. 468.1745 or s. 468.1755. Upon completion of the investigation, the provisions of s. 468.1755 shall apply. The provisional license may be issued to a person who does not meet all of the licensing requirements established by this part, but the board shall by rule establish minimal requirements to ensure protection of the public health, safety, and welfare. The provisional license shall be issued to the person who is designated as the responsible person next in command in the event of the administrator's departure. The board may set an application fee not to exceed $500 for a provisional license.

Section 85. For the purpose of incorporating the amendment to section 456.072(1), Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 484.056, Florida Statutes, is reenacted to read:

484.056 Disciplinary proceedings.—

(1) The following acts relating to the practice of dispensing hearing aids shall be grounds for both disciplinary action against a hearing aid

specialist as set forth in this section and cease and desist or other related action by the department as set forth in s. 456.065 against any person owning or operating a hearing aid establishment who engages in, aids, or abets any such violation:

(a) Violation of any provision of s. 456.072(1), s. 484.0512, or s. 484.053.

Section 86. Paragraph (a) of subsection (1), paragraph (a) of subsection (7), and subsection (8) of section 766.101, Florida Statutes, are amended to read:

766.101 Medical review committee, immunity from liability.—

(1) As used in this section:

(a) The term "medical review committee" or "committee" means:

1.a. A committee of a hospital or ambulatory surgical center licensed under chapter 395 or a health maintenance organization certificated under part I of chapter 641,

b. A committee of a physician-hospital organization, a provider-sponsored organization, or an integrated delivery system,

c. A committee of a state or local professional society of health care providers,

d. A committee of a medical staff of a licensed hospital or nursing home, provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital or nursing home,

e. A committee of the Department of Corrections or the Correctional Medical Authority as created under s. 945.602, or employees, agents, or consultants of either the department or the authority or both,

f. A committee of a professional service corporation formed under chapter 621 or a corporation organized under chapter 607 or chapter 617, which is formed and operated for the practice of medicine as defined in s. 458.305(3), and which has at least 25 health care providers who routinely provide health care services directly to patients,

g. A committee of a mental health treatment facility licensed under chapter 394 or a community mental health center as defined in s. 394.907, provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

h. A committee of a substance abuse treatment and education prevention program licensed under chapter 397 provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

i. A peer review or utilization review committee organized under chapter 440, ~~or~~

j. A committee of the Department of Health, a county health department, healthy start coalition, or certified rural health network, when reviewing quality of care, or employees of these entities when reviewing mortality records, *or*

k. A continuous quality improvement committee of a pharmacy licensed pursuant to chapter 465,

which committee is formed to evaluate and improve the quality of health care rendered by providers of health service or to determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care or that the cost of health care rendered was considered reasonable by the providers of professional health services in the area; or

2. A committee of an insurer, self-insurer, or joint underwriting association of medical malpractice insurance, or other persons conducting review under s. 766.106.

(7)(a) It is the intent of the Legislature to encourage medical review committees to contribute further to the quality of health care in this state by reviewing complaints against physicians in the manner described in this paragraph. Accordingly, the Department of *Health* ~~Business and Professional Regulation~~ may enter into a letter of agreement with a professional society of physicians licensed under chapter 458 or chapter 459, under which agreement the medical or peer review committees of the professional society will conduct a review of any complaint or case referred to the society by the department which involves a question as to whether a physician's actions represented a breach of the prevailing professional standard of care. The prevailing professional standard of care is that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers. The letter of agreement must specify that the professional society will submit an advisory report to the department within a reasonable time following the department's written and appropriately supported request to the professional society. The advisory report, which is not binding upon the department, constitutes the professional opinion of the medical review committee and must include:

1. A statement of relevant factual findings.

2. The judgment of the committee as to whether the physician's actions represented a breach of the prevailing professional standard of care.

(8) No cause of action of any nature by a person licensed pursuant to chapter 458, chapter 459, chapter 461, chapter 463, part I of chapter 464, chapter 465, or chapter 466 shall arise against another person licensed pursuant to chapter 458, chapter 459, chapter 461, chapter 463, part I of chapter 464, chapter 465, or chapter 466 for furnishing information to a duly appointed medical review committee, to an internal risk management program established under s. 395.0197, to the Department of *Health or the Agency for Health Care Administration* ~~Business and Professional Regulation~~, or to the appropriate regulatory board if the information furnished concerns patient care at a facility licensed pursuant to part I of chapter 395 where both persons provide health care services, if the information is not intentionally fraudulent, and if the information is within the scope of the functions of the committee, department, or board. However, if such information is otherwise available from original sources, it is not immune from discovery or use in a civil action merely because it was presented during a proceeding of the committee, department, or board.

Section 87. For the purpose of incorporating the amendment to section 766.101(1)(a), Florida Statutes, in references thereto, paragraph (a) of subsection (1) of section 440.105, Florida Statutes, and subsection (6) of section 626.989, Florida Statutes, are reenacted to read:

440.105 Prohibited activities; reports; penalties; limitations.—

(1)(a) Any insurance carrier, any individual self-insured, any commercial or group self-insurance fund, any professional practitioner licensed or regulated by the Department of Business and Professional Regulation, except as otherwise provided by law, any medical review committee as defined in s. 766.101, any private medical review committee, and any insurer, agent, or other person licensed under the insurance code, or any employee thereof, having knowledge or who believes that a fraudulent act or any other act or practice which, upon conviction, constitutes a felony or misdemeanor under this chapter is being or has been committed shall send to the Division of Insurance Fraud, Bureau of Workers' Compensation Fraud, a report or information pertinent to such knowledge or belief and such additional information relative thereto as the bureau may require. The bureau shall review such information or reports and select such information or reports as, in its judgment, may require further investigation. It shall then cause an independent examination of the facts surrounding such information or report to be made to determine the extent, if any, to which a fraudulent act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under this chapter is being committed. The bureau shall report any alleged violations of law which its investigations disclose to the appropriate licensing agency and state attorney or other prosecuting agency having jurisdiction with respect to any such violations of this chapter. If prosecution by the state

attorney or other prosecuting agency having jurisdiction with respect to such violation is not begun within 60 days of the bureau's report, the state attorney or other prosecuting agency having jurisdiction with respect to such violation shall inform the bureau of the reasons for the lack of prosecution.

626.989 Investigation by department or Division of Insurance Fraud; compliance; immunity; confidential information; reports to division; division investigator's power of arrest.—

(6) Any person, other than an insurer, agent, or other person licensed under the code, or an employee thereof, having knowledge or who believes that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under the code, or under s. 817.234, is being or has been committed may send to the Division of Insurance Fraud a report or information pertinent to such knowledge or belief and such additional information relative thereto as the department may request. Any professional practitioner licensed or regulated by the Department of Business and Professional Regulation, except as otherwise provided by law, any medical review committee as defined in s. 766.101, any private medical review committee, and any insurer, agent, or other person licensed under the code, or an employee thereof, having knowledge or who believes that a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under the code, or under s. 817.234, is being or has been committed shall send to the Division of Insurance Fraud a report or information pertinent to such knowledge or belief and such additional information relative thereto as the department may require. The Division of Insurance Fraud shall review such information or reports and select such information or reports as, in its judgment, may require further investigation. It shall then cause an independent examination of the facts surrounding such information or report to be made to determine the extent, if any, to which a fraudulent insurance act or any other act or practice which, upon conviction, constitutes a felony or a misdemeanor under the code, or under s. 817.234, is being committed. The Division of Insurance Fraud shall report any alleged violations of law which its investigations disclose to the appropriate licensing agency and state attorney or other prosecuting agency having jurisdiction with respect to any such violation, as provided in s. 624.310. If prosecution by the state attorney or other prosecuting agency having jurisdiction with respect to such violation is not begun within 60 days of the division's report, the state attorney or other prosecuting agency having jurisdiction with respect to such violation shall inform the division of the reasons for the lack of prosecution.

Section 88. Paragraph (c) of subsection (4) of section 766.1115, Florida Statutes, is amended to read:

766.1115 Health care providers; creation of agency relationship with governmental contractors.—

(4) CONTRACT REQUIREMENTS.—A health care provider that executes a contract with a governmental contractor to deliver health care services on or after April 17, 1992, as an agent of the governmental contractor is an agent for purposes of s. 768.28(9), while acting within the scope of duties pursuant to the contract, if the contract complies with the requirements of this section and regardless of whether the individual treated is later found to be ineligible. A health care provider under contract with the state may not be named as a defendant in any action arising out of the medical care or treatment provided on or after April 17, 1992, pursuant to contracts entered into under this section. The contract must provide that:

(c) Adverse incidents and information on treatment outcomes must be reported by any health care provider to the governmental contractor if such incidents and information pertain to a patient treated pursuant to the contract. The health care provider shall *submit the reports required by s. 395.0197* ~~annually submit an adverse incident report that includes all information required by s. 395.0197(6)(a), unless the adverse incident involves a result described by s. 395.0197(8), in which case it shall be reported within 15 days after the occurrence of such incident~~. If an incident involves a professional licensed by the Department of Health or a facility licensed by the Agency for Health Care Administration, the governmental contractor shall submit such incident reports to the appropriate department or agency, which shall review each incident and determine whether it involves conduct by the licensee that is subject to disciplinary action. All patient medical records and any identifying information contained in adverse incident reports and treatment outcomes which are obtained by governmental entities pursuant to this paragraph are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

Section 89. Section 456.047, Florida Statutes, is amended to read:

456.047 Standardized credentialing for health care practitioners.—

(1) INTENT.—The Legislature recognizes that an efficient and effective health care practitioner credentialing program helps to ensure access to quality health care and also recognizes that health care practitioner credentialing activities have increased significantly as a result of health care reform and recent changes in health care delivery and reimbursement systems. Moreover, the resulting duplication of health care practitioner credentialing activities is unnecessarily costly and cumbersome for both the practitioner and the entity granting practice privileges. Therefore, it is the intent of this section that a credentials collection program be established which provides that, once a health care practitioner's core credentials data are collected, they need not be collected again, except for corrections, updates, and modifications thereto. *Furthermore, it is the intent of the Legislature that the department and all entities and practitioners work cooperatively to ensure the integrity and accuracy of the program.* Participation under this section shall include those individuals licensed under chapter 458, chapter 459, chapter 460, chapter 461, or s. 464.012. However, the department shall, with the approval of the applicable board, include other professions under the jurisdiction of the Division of Medical Quality Assurance in this program, provided they meet the requirements of s. 456.039 or s. 456.0391.

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

(a) "Certified" or "accredited," as applicable, means approved by a quality assessment program, from the National Committee for Quality Assurance, the Joint Commission on Accreditation of Healthcare Organizations, the American Accreditation HealthCare Commission/URAC, or any such other nationally recognized and accepted organization authorized by the department, used to assess and certify any credentials verification program, entity, or organization that verifies the credentials of any health care practitioner.

(b) "Core credentials data" means *data that is primary source verified and includes* ~~the following data: current name, any former name, and any alias, any~~ professional education, professional training, licensure, current Drug Enforcement Administration certification, ~~social security number,~~ specialty board certification, Educational Commission for Foreign Medical Graduates certification, *and* ~~hospital or other institutional affiliations, evidence of professional liability coverage or evidence of financial responsibility as required by s. 458.320, s. 459.0085, or s. 456.048, history of claims, suits, judgments, or settlements,~~ final disciplinary action reported pursuant to s. 456.039(1)(a)8. or s. 456.0391(1)(a)8. *The department may by rule designate additional core credentials data elements*~~, and Medicare or Medicaid sanctions~~.

(c) "Credential" or "credentialing" means the process of assessing and verifying the qualifications of a licensed health care practitioner or applicant for licensure as a health care practitioner.

(d) "Credentials verification organization" means any organization certified or accredited as a credentials verification organization.

(e) "Department" means the Department of Health, Division of Medical Quality Assurance.

(f) "Designated credentials verification organization" means the credentials verification organization which is selected by the health care practitioner, if the health care practitioner chooses to make such a designation.

(g) "Drug Enforcement Administration certification" means certification issued by the Drug Enforcement Administration for purposes of administration or prescription of controlled substances. Submission of such certification under this section must include evidence that the certification is current and must also include all current addresses to which the certificate is issued.

(h) "Health care entity" means:

1. Any health care facility or other health care organization licensed or certified to provide approved medical and allied health services in this state;

2. Any entity licensed by the Department of Insurance as a prepaid health care plan or health maintenance organization or as an insurer to provide coverage for health care services through a network of providers *or similar organization licensed under chapter 627, chapter 636, chapter 641, or chapter 651*; or

3. Any accredited medical school in this state.

(i) "Health care practitioner" means any person licensed, or, for credentialing purposes only, any person applying for licensure, under chapter 458, chapter 459, chapter 460, chapter 461, or s. 464.012 or any person licensed or applying for licensure under a chapter subsequently made subject to this section by the department with the approval of the applicable board, except a person registered or applying for registration pursuant to s. 458.345 or s. 459.021.

~~(j) "Hospital or other institutional affiliations" means each hospital or other institution for which the health care practitioner or applicant has provided medical services. Submission of such information under this section must include, for each hospital or other institution, the name and address of the hospital or institution, the staff status of the health care practitioner or applicant at that hospital or institution, and the dates of affiliation with that hospital or institution.~~

(j)~~(k)~~ "National accrediting organization" means an organization that awards accreditation or certification to hospitals, managed care organizations, credentials verification organizations, or other health care organizations, including, but not limited to, the Joint Commission on Accreditation of Healthcare Organizations, the American Accreditation HealthCare Commission/URAC, and the National Committee for Quality Assurance.

(k) "Primary source verification" means verification of professional qualifications based on evidence obtained directly from the issuing source of the applicable qualification or from any other source deemed as a primary source for such verification by the department or an accrediting body approved by the department.

(l) "Professional training" means any internship, residency, or fellowship relating to the profession for which the health care practitioner is licensed or seeking licensure.

(m) "Specialty board certification" means certification in a specialty issued by a specialty board recognized by the board in this state that regulates the profession for which the health care practitioner is licensed or seeking licensure.

(3) STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.—

(a) Every health care practitioner shall:

1. Report all core credentials data to the department which is not already on file with the department, either by designating a credentials verification organization to submit the data or by submitting the data directly.

2. Notify the department within 45 days of any corrections, updates, or modifications to the core credentials data either through his or her designated credentials verification organization or by submitting the data directly. Corrections, updates, and modifications to the core credentials data provided the department under this section shall comply with the updating requirements of s. 456.039(3) or s. 456.0391(3) related to profiling.

(b) The department shall:

1. Maintain a complete, current file of *applicable* core credentials data on each health care practitioner, which shall include *data provided in accordance with subparagraph (a)1. and* all updates provided in accordance with subparagraph (a)2.

2. Release the core credentials data that is otherwise confidential or exempt from the provisions of chapter 119 and s. 24(a), Art. I of the State Constitution and any corrections, updates, and modifications thereto, if authorized by the health care practitioner.

3. Charge a fee to access the core credentials data, which may not exceed the actual cost, including prorated setup and operating costs, pursuant to the requirements of chapter 119.

4. Develop standardized forms to be used by the health care practitioner or designated credentials verification organization for the initial reporting of core credentials data, for the health care practitioner to authorize the release of core credentials data, and for the subsequent reporting of corrections, updates, and modifications thereto.

(c) A registered credentials verification organization may be designated by a health care practitioner to assist the health care practitioner to comply with the requirements of subparagraph (a)2. A designated credentials verification organization shall:

1. Timely comply with the requirements of subparagraph (a)2., pursuant to rules adopted by the department.

2. Not provide the health care practitioner's core *credentials* data, including all corrections, updates, and modifications, without the authorization of the practitioner.

(d) This section shall not be construed to restrict in any way the authority of the health care entity to credential and to approve or deny an application for hospital staff membership, clinical privileges, or managed care network participation.

(4) DUPLICATION OF DATA PROHIBITED.—

(a) A health care entity or credentials verification organization is prohibited from collecting or attempting to collect duplicate core credentials data from any health care practitioner if the information is available from the department. This section shall not be construed to restrict the right of any health care entity or credentials verification organization to collect additional information from the health care practitioner which is not included in the core credentials data file. This section shall not be construed to prohibit a health care entity or credentials verification organization from obtaining all necessary attestation and release form signatures and dates.

(b) Effective July 1, 2002, a state agency in this state which credentials health care practitioners may not collect or attempt to collect duplicate core credentials data from any individual health care practitioner if the information is already available from the department. This section shall not be construed to restrict the right of any such state agency to request additional information not included in the core *credentials* ~~credential~~ data file, but which is deemed necessary for the agency's specific credentialing purposes.

(5) STANDARDS AND REGISTRATION.—Any credentials verification organization that does business in this state must be fully accredited or certified as a credentials verification organization by a national accrediting organization as specified in paragraph (2)(a) and must register with the department. The department may charge a reasonable registration fee, not to exceed an amount sufficient to cover its actual expenses in providing and enforcing such registration. The department shall establish by rule for biennial renewal of such registration. Failure by a registered credentials verification organization to maintain full accreditation or certification, to provide data as authorized by the health care practitioner, to report to the department changes, updates, and modifications to a health care practitioner's records within the time period specified in subparagraph (3)(a)2., or to comply with the prohibition against collection of duplicate core credentials data from a practitioner may result in denial of an

application for renewal of registration or in revocation or suspension of a registration.

(6) PRIMARY SOURCE VERIFIED DATA.—Health care entities and credentials verification organizations may rely upon any data that has been primary source verified by the department or its designee to meet primary source verification requirements of national accrediting organizations.

(7)~~(6)~~ LIABILITY.—No civil, criminal, or administrative action may be instituted, and there shall be no liability, against any registered credentials verification organization or health care entity on account of its reliance on any data obtained directly from the department.

(8)~~(7)~~ LIABILITY INSURANCE REQUIREMENTS.—Each credentials verification organization doing business in this state shall maintain liability insurance appropriate to meet the certification or accreditation requirements established in this section.

(9)~~(8)~~ RULES.—The department shall adopt rules necessary to develop and implement the standardized core credentials data collection program established by this section.

Section 90. Section 232.61, Florida Statutes, is amended to read:

232.61 Governing organization for athletics; adoption of bylaws.—

(1) The organization shall adopt bylaws that, unless specifically provided by statute, establish eligibility requirements for all students who participate in high school athletic competition in its member schools. The bylaws governing residence and transfer shall allow the student to be eligible in the school in which he or she first enrolls each school year, or makes himself or herself a candidate for an athletic team by engaging in a practice prior to enrolling in any member school. The student shall be eligible in that school so long as he or she remains enrolled in that school. Subsequent eligibility shall be determined and enforced through the organization's bylaws.

(2) The organization shall ~~also~~ adopt bylaws that specifically prohibit the recruiting of students for athletic purposes. The bylaws shall prescribe penalties and an appeals process for athletic recruiting violations.

(3) The organization shall adopt bylaws that require all students participating in interscholastic athletic competition or who are candidates for an interscholastic athletic team to satisfactorily pass a medical evaluation each year prior to participating in interscholastic athletic competition or engaging in any practice, tryout, workout, or other physical activity associated with the student's candidacy for an interscholastic athletic team. Such medical evaluation can only be administered by a practitioner licensed under the provisions of chapter 458, chapter 459, chapter 460, or s. 464.012, and in good standing with the practitioner's regulatory board. The bylaws shall establish requirements for eliciting a student's medical history and performing the medical evaluation required under this subsection, which shall include minimum standards for the physical capabilities necessary for participation in interscholastic athletic competition as contained in a uniform preparticipation physical evaluation form. The evaluation form shall provide place for the signature of the practitioner performing the evaluation with an attestation that each examination procedure listed on the form was performed by the practitioner or by someone under the direct supervision of the practitioner. The form shall also contain a place for the practitioner to indicate if a referral to another practitioner was made in lieu of completion of a certain examination procedure. The form shall provide a place for the practitioner to whom the student was referred to complete the remaining sections and attest to that portion of the examination. Practitioners administering medical evaluations pursuant to this section must know the minimum standards established by the organization and certify that the student meets the standards. If the practitioner determines that there are any abnormal findings in the cardiovascular system, the student may not participate unless a subsequent EKG or other cardiovascular assessment indicates that the abnormality will not place the student at risk during such participation. Results of such medical evaluation must be provided to the school. No student shall be eligible to participate in any interscholastic athletic competition or engage in any practice, tryout, workout, or other physical activity associated with the student's candidacy for an interscholastic athletic team until the results of the medical evaluation verifying that the student has satisfactorily passed the evaluation have been received and approved by the school.

(4) Notwithstanding the provisions of subsection (3), a student may participate in interscholastic athletic competition or be a candidate for an interscholastic athletic team if the parent or guardian of the student objects in writing to the student undergoing a medical evaluation because such evaluation is contrary to his or her religious tenets or practices, provided that no person or entity shall be held liable for any injury or other damages suffered by such student.

Section 91. Section 240.4075, Florida Statutes, is amended to read:

240.4075 Nursing Student Loan Forgiveness Program.—

(1) To encourage qualified personnel to seek employment in areas of this state in which critical nursing shortages exist, there is established the Nursing Student Loan Forgiveness Program. The primary function of the program is to increase employment and retention of registered nurses and licensed practical nurses in nursing homes and hospitals in the state and in state-operated medical and health care facilities, *public schools,* birth centers, *and* federally sponsored community health centers ~~and teaching hospitals~~ by making repayments toward loans received by students from federal or state programs or commercial lending institutions for the support of postsecondary study in accredited or approved nursing programs.

(2) To be eligible, a candidate must have graduated from an accredited or approved nursing program and have received a Florida license as a licensed practical nurse or a registered nurse or a Florida certificate as an advanced registered nurse practitioner.

(3) Only loans to pay the costs of tuition, books, and living expenses shall be covered, at an amount not to exceed $4,000 for each year of education towards the degree obtained.

(4) Receipt of funds pursuant to this program shall be contingent upon continued proof of employment in the designated facilities in this state. Loan principal payments shall be made by the Department of *Health* ~~Education~~ directly to the federal or state programs or commercial lending institutions holding the loan as follows:

(a) Twenty-five percent of the loan principal and accrued interest shall be retired after the first year of nursing;

(b) Fifty percent of the loan principal and accrued interest shall be retired after the second year of nursing;

(c) Seventy-five percent of the loan principal and accrued interest shall be retired after the third year of nursing; and

(d) The remaining loan principal and accrued interest shall be retired after the fourth year of nursing.

In no case may payment for any nurse exceed $4,000 in any 12-month period.

(5) There is created the Nursing Student Loan Forgiveness Trust Fund to be administered by the Department of *Health* ~~Education~~ pursuant to this section and s. 240.4076 and department rules. The Comptroller shall authorize expenditures from the trust fund upon receipt of vouchers approved by the Department of *Health* ~~Education~~. All moneys collected from the private health care industry and other private sources for the purposes of this section shall be deposited into the Nursing Student Loan Forgiveness Trust Fund. Any balance in the trust fund at the end of any fiscal year shall remain therein and shall be available for carrying out the purposes of this section and s. 240.4076.

(6) In addition to licensing fees imposed under part I of chapter 464, there is hereby levied and imposed an additional fee of $5, which fee shall be paid upon licensure or renewal of nursing licensure. Revenues collected from the fee imposed in this subsection shall be deposited in the Nursing Student Loan Forgiveness Trust Fund of the Department

of *Health* ~~Education~~ and will be used solely for the purpose of carrying out the provisions of this section and s. 240.4076. Up to 50 percent of the revenues appropriated to implement this subsection may be used for the nursing scholarship program established pursuant to s. 240.4076.

(7)(a) Funds contained in the Nursing Student Loan Forgiveness Trust Fund which are to be used for loan forgiveness for those nurses employed by hospitals, birth centers, and nursing homes must be matched on a dollar-for-dollar basis by contributions from the employing institutions, except that this provision shall not apply to state-operated medical and health care facilities, *public schools,* county health departments, federally sponsored community health centers, ~~or~~ teaching hospitals as defined in s. 408.07*, family practice teaching hospitals as defined in s. 395.805, or specialty hospitals for children as used in s. 409.9119. If in any given fiscal quarter there are insufficient funds in the trust fund to grant all eligible applicant requests, awards shall be based on the following priority of employer: county health departments; federally sponsored community health centers; state-operated medical and health care facilities; public schools; teaching hospitals as defined in s. 408.07; family practice teaching hospitals as defined in s. 395.805; specialty hospitals for children as used in s. 409.9119; and other hospitals, birth centers, and nursing homes*.

(b) All Nursing Student Loan Forgiveness Trust Fund moneys shall be invested pursuant to s. 18.125. Interest income accruing to that portion of the trust fund not matched shall increase the total funds available for loan forgiveness and scholarships. Pledged contributions shall not be eligible for matching prior to the actual collection of the total private contribution for the year.

(8) The Department of *Health* ~~Education~~ may solicit technical assistance relating to the conduct of this program from the Department of *Education* ~~Health~~.

(9) The Department of *Health* ~~Education~~ is authorized to recover from the Nursing Student Loan Forgiveness Trust Fund its costs for administering the Nursing Student Loan Forgiveness Program.

(10) The Department of *Health* ~~Education~~ may adopt rules necessary to administer this program.

(11) This section shall be implemented only as specifically funded.

Section 92. Section 240.4076, Florida Statutes, is amended to read:

240.4076 Nursing scholarship program.—

(1) There is established within the Department of *Health* ~~Education~~ a scholarship program for the purpose of attracting capable and promising students to the nursing profession.

(2) A scholarship applicant shall be enrolled as a full-time or part-time student in the upper division of an approved nursing program leading to the award of a baccalaureate *degree or graduate degree to qualify for a nursing faculty position or as an* ~~or any~~ advanced registered nurse practitioner ~~degree~~ or be enrolled as a full-time or part-time student in an approved program leading to the award of an associate degree in nursing ~~or a diploma in nursing~~.

(3) A scholarship may be awarded for no more than 2 years, in an amount not to exceed $8,000 per year. However, registered nurses pursuing *a graduate degree for a faculty position or to practice as* an advanced registered nurse practitioner ~~degree~~ may receive up to $12,000 per year. Beginning July 1, 1998, these amounts shall be adjusted by the amount of increase or decrease in the consumer price index for urban consumers published by the United States Department of Commerce.

(4) Credit for repayment of a scholarship shall be as follows:

(a) For each full year of scholarship assistance, the recipient agrees to work for 12 months *in a faculty position in a college of nursing or community college nursing program in this state or* at a health care facility in a medically underserved area as approved by the Department of *Health* ~~Education~~. Scholarship recipients who attend school on a part-time basis shall have their employment service obligation prorated in proportion to the amount of scholarship payments received.

(b) Eligible health care facilities include *nursing homes and hospitals in this state,* state-operated medical or health care facilities, *public schools,* county health departments, federally sponsored community health centers, *colleges of nursing in universities in this state, and community college nursing programs in this state* ~~or teaching hospitals as defined in s. 408.07~~. The recipient shall be encouraged to complete the service obligation at a single employment site. If continuous employment at the same site is not feasible, the recipient may apply to the department for a transfer to another approved health care facility.

(c) Any recipient who does not complete an appropriate program of studies or who does not become licensed shall repay to the Department of *Health* ~~Education~~, on a schedule to be determined by the department, the entire amount of the scholarship plus 18 percent interest accruing from the date of the scholarship payment. Moneys repaid shall be deposited into the Nursing Student Loan Forgiveness Trust Fund established in s. 240.4075. However, the department may provide additional time for repayment if the department finds that circumstances beyond the control of the recipient caused or contributed to the default.

(d) Any recipient who does not accept employment as a nurse at an approved health care facility or who does not complete 12 months of approved employment for each year of scholarship assistance received shall repay to the Department of *Health* ~~Education~~ an amount equal to two times the entire amount of the scholarship plus interest accruing from the date of the scholarship payment at the maximum allowable interest rate permitted by law. Repayment shall be made within 1 year of notice that the recipient is considered to be in default. However, the department may provide additional time for repayment if the department finds that circumstances beyond the control of the recipient caused or contributed to the default.

(5) Scholarship payments shall be transmitted to the recipient upon receipt of documentation that the recipient is enrolled in an approved nursing program. The Department of *Health* ~~Education~~ shall develop a formula to prorate payments to scholarship recipients so as not to exceed the maximum amount per academic year.

(6) The Department of *Health* ~~Education~~ shall adopt rules, including rules to address extraordinary circumstances that may cause a recipient to default on either the school enrollment or employment contractual agreement, to implement this section and may solicit technical assistance relating to the conduct of this program from the Department of Health.

(7) The Department of *Health* ~~Education~~ is authorized to recover from the Nursing Student Loan Forgiveness Trust Fund its costs for administering the nursing scholarship program.

Section 93. *All powers, duties, and functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Department of Education relating to the Nursing Student Loan Forgiveness Program and the nursing scholarship program are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, to the Department of Health.*

Section 94. Effective July 1, 2003, section 464.005, Florida Statutes, is amended to read:

464.005 Board headquarters.—The board shall maintain its official headquarters in *Tallahassee* ~~the city in which it has been domiciled for the past 5 years~~.

Section 95. Subsections (1) and (2) of section 464.008, Florida Statutes, are amended to read:

464.008 Licensure by examination.—

(1) Any person desiring to be licensed as a registered nurse or licensed practical nurse shall apply to the department to take the licensure examination. The department shall examine each applicant who:

(a) Has completed the application form and remitted a fee set by the board not to exceed $150 and has remitted an examination fee set by the board not to exceed $75 plus the actual per applicant cost to the department for purchase of the examination from the National Council of State Boards of Nursing or a similar national organization.

(b) Has provided sufficient information on or after October 1, 1989, which must be submitted by the department for a statewide criminal records correspondence check through the Department of Law Enforcement.

(c) Is in good mental and physical health, is a recipient of a high school diploma or the equivalent, and has completed the requirements for graduation from an approved program*, or its equivalent as determined by the board,* for the preparation of registered nurses or licensed practical nurses, whichever is applicable. Courses successfully completed in a professional nursing program which are at least equivalent to a practical nursing program may be used to satisfy the education requirements for licensure as a licensed practical nurse.

(d) Has the ability to communicate in the English language, which may be determined by an examination given by the department.

(2) Each applicant who passes the examination and provides proof of *meeting the educational requirements specified in subsection (1)* ~~graduation from an approved nursing program~~ shall, unless denied pursuant to s. 464.018, be entitled to licensure as a registered professional nurse or a licensed practical nurse, whichever is applicable.

Section 96. Section 464.009, Florida Statutes, is amended to read:

464.009 Licensure by endorsement.—

(1) The department shall issue the appropriate license by endorsement to practice professional or practical nursing to an applicant who, upon applying to the department and remitting a fee set by the board not to exceed $100, demonstrates to the board that he or she:

(a) Holds a valid license to practice professional or practical nursing in another state of the United States, provided that, when the applicant secured his or her original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in Florida at that time; or

(b) Meets the qualifications for licensure in s. 464.008 and has successfully completed a state, regional, or national examination which is substantially equivalent to or more stringent than the examination given by the department.

(2) Such examinations and requirements from other states shall be presumed to be substantially equivalent to or more stringent than those in this state. Such presumption shall not arise until January 1, 1980. However, the board may, by rule, specify states the examinations and requirements of which shall not be presumed to be substantially equivalent to those of this state.

(3) The applicant must submit to the department a set of fingerprints on a form and under procedures specified by the department, along with a payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant. The Department of Health shall submit the fingerprints provided by the applicant to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check of the applicant. The Department of Health shall review the results of the criminal history check, issue a license to an applicant who has met all of the other requirements for licensure and has no criminal history, and shall refer all applicants with criminal histories back to the board for determination as to whether a license should be issued and under what conditions.

(4)~~(3)~~ The department shall not issue a license by endorsement to any applicant who is under investigation in another state for an act which would constitute a violation of this part *or chapter 456* until such time as the investigation is complete, at which time the provisions of s. 464.018 shall apply.

(5) The department shall develop an electronic applicant notification process and provide electronic notification when the application has been received and when background screenings have been completed, and shall issue a license within 30 days after completion of all required data collection and verification. This 30-day period to issue a license shall be tolled if the applicant must appear before the board due to information provided on the application or obtained through screening and data collection and verification procedures.

Section 97. Section 464.0195, Florida Statutes, is created to read:

464.0195 Florida Center for Nursing; goals.—There is established the Florida Center for Nursing to address issues of supply and demand for nursing, including issues of recruitment, retention, and utilization of nurse workforce resources. The Legislature finds that the center will repay the state's investment by providing an ongoing strategy for the allocation of the state's resources directed towards nursing. The primary goals for the center shall be to:

(1) Develop a strategic statewide plan for nursing manpower in this state by:

(a) Establishing and maintaining a database on nursing supply and demand in the state, to include current supply and demand, and future projections; and

(b) Selecting from the plan priorities to be addressed.

(2) Convene various groups representative of nurses, other health care providers, business and industry, consumers, legislators, and educators to:

(a) Review and comment on data analysis prepared for the center;

(b) Recommend systemic changes, including strategies for implementation of recommended changes; and

(c) Evaluate and report the results of these efforts to the Legislature and others.

(3) Enhance and promote recognition, reward, and renewal activities for nurses in the state by:

(a) Promoting nursing excellence programs such as magnet recognition by the American Nurses Credentialing Center;

(b) Proposing and creating additional reward, recognition, and renewal activities for nurses; and

(c) Promoting media and positive image-building efforts for nursing.

Section 98. Section 464.0196, Florida Statutes, is created to read:

464.0196 Florida Center for Nursing; board of directors.—

(1) The Florida Center for Nursing shall be governed by a policy-setting board of directors. The board shall consist of 16 members, with a simple majority of the board being nurses representative of various practice areas. Other members shall include representatives of other health care professions, business and industry, health care providers, and consumers. The members of the board shall be appointed by the Governor as follows:

(a) Four members recommended by the President of the Senate, at least one of whom shall be a registered nurse recommended by the Florida Organization of Nurse Executives and at least one other representative of the hospital industry recommended by the Florida Hospital Association;

(b) Four members recommended by the Speaker of the House of Representatives, at least one of whom shall be a registered nurse recommended by the Florida Nurses Association and at least one other representative of the long-term care industry;

(c) Four members recommended by the Governor, two of whom shall be registered nurses; and

(d) Four nurse educators recommended by the State Board of Education, one of whom shall be a dean of a College of Nursing at a state university, one other shall be a director of a nursing program in a state community college.

(2) The initial terms of the members shall be as follows:

(a) Of the members appointed pursuant to paragraph (1)(a), two shall be appointed for terms expiring June 30, 2005, one for a term expiring June 30, 2004, and one for a term expiring June 30, 2003.

(b) Of the members appointed pursuant to paragraph (1)(b), one shall be appointed for a term expiring June 30, 2005, two for terms expiring June 30, 2004, and one for a term expiring June 20, 2003.

(c) Of the members appointed pursuant to paragraph (1)(c), one shall be appointed for a term expiring June 30, 2005, one for a term expiring June 30, 2004, and two for terms expiring June 30, 2003.

(d) Of the members appointed pursuant to paragraph (1)(d), the terms of two members recommended by the State Board of Education shall expire June 30, 2005; the term of the member who is a dean of a College of Nursing at a state university shall expire June 30, 2004; and the term of the member who is a director of a state community college nursing program shall expire June 30, 2003.

After the initial appointments expire, the terms of all the members shall be for 3 years, with no member serving more than two consecutive terms.

(3) The board shall have the following powers and duties:

(a) To employ an executive director.

(b) To determine operational policy.

(c) To elect a chair and officers, to serve 2-year terms. The chair and officers may not succeed themselves.

(d) To establish committees of the board as needed.

(e) To appoint a multidisciplinary advisory council for input and advice on policy matters.

(f) To implement the major functions of the center as established in the goals set out in s. 464.0195.

(g) To seek and accept nonstate funds for sustaining the center and carrying out center policy.

(4) The members of the board are entitled to receive per diem and allowances prescribed by law for state boards and commissions.

Section 99. Section 464.0197, Florida Statutes, is created to read:

464.0197 Florida Center for Nursing; state budget support.—The Legislature finds that it is imperative that the state protect its investment and progress made in nursing efforts to date. The Legislature finds that the Florida Center for Nursing is the appropriate means to do so. The center shall have state budget support for its operations so that it may have adequate resources for the tasks the Legislature has set out in s. 464.0195.

Section 100. *The Board of Nursing within the Department of Health shall hold in abeyance until July 1, 2002, the development of any rule pursuant to s. 464.019(2), Florida Statutes, which relates to the establishment of faculty/student clinical ratios. The Board of Nursing and the Department of Education shall submit to the President of the Senate and the Speaker of the House of Representatives by December 31, 2001, an implementation plan that details both the impact and the cost of any such proposed rule change.*

Section 101. Subsection (1) of section 464.0205, Florida Statutes, is amended to read:

464.0205 Retired volunteer nurse certificate.—

(1) Any retired practical or registered nurse desiring to serve indigent, underserved, or critical need populations in this state may apply to the department for a retired volunteer nurse certificate by providing:

(a) A complete application.

~~(b) An application and processing fee of $25.~~

(b)~~(c)~~ Verification that the applicant had been licensed to practice nursing in any jurisdiction in the United States for at least 10 years, had retired or plans to retire, intends to practice nursing only pursuant to the limitations provided by the retired volunteer nurse certificate, and has not committed any act that would constitute a violation under s. 464.018(1).

(c)~~(d)~~ Proof that the applicant meets the requirements for licensure under s. 464.008 or s. 464.009.

Section 102. *The Florida Legislature's Office of Program Policy Analysis and Government Accountability shall study the feasibility of maintaining the entire Medical Quality Assurance function, including enforcement, within one department, as recommended by the Auditor General in Operational Report Number 01-063. The study shall be completed and a report issued to the Legislature on or before November 30, 2001.*

Section 103. Effective October 1, 2001, section 456.0375, Florida Statutes, is created to read:

456.0375 Registration of certain clinics; requirements; discipline; exemptions.—

(1)(a) As used in this section, the term "clinic" means a business operating in a single structure or facility or group of adjacent structures or facilities operating under the same business name or management at which health care services are provided to individuals and which tenders charges for reimbursement for such services.

(b) For purposes of this section, the term "clinic" does not include and the registration requirements in this section do not apply to:

1. Entities licensed or registered by the state pursuant to chapter 390, chapter 394, chapter 395, chapter 397, chapter 400, chapter 463, chapter 465, chapter 466, chapter 478, chapter 480, or chapter 484.

2. Entities exempt from federal taxation under 26 U.S.C. s. 501(c)(3).

3. Sole proprietorships, group practices, partnerships, or corporations which provide health care services by licensed health care practitioners pursuant to chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 466, chapter 467, chapter 484, chapter 486, chapter 490, or chapter 491; part I, part III, part X, part XIII, or part XIV of chapter 468; or s. 464.012, which are wholly owned by licensed health care practitioners or wholly owned by licensed health care practitioners and the spouse, parent, or child of a licensed health care practitioner, so long as one of the owners who is a licensed health care practitioner is supervising the services performed therein and is legally responsible for the entity's compliance with all federal and state laws. However, no health care practitioner may supervise services beyond the scope of the practitioner's license.

(2)(a) Every clinic, as defined in paragraph (1)(a), must register, and at all times maintain a valid registration, with the department. Each clinic location must be registered separately even though operated under the same business name or management, and each clinic must appoint a medical director or clinic director.

(b) The department shall adopt rules necessary to administer the registration program, including rules establishing the specific registration procedures, forms, and fees. Registration may be conducted electronically. Registration fees must be calculated to reasonably cover the cost of registration and must be of such amount that the total fees collected do not exceed the cost of administering and enforcing compliance with this section. The registration program must require:

1. The clinic to file the registration form with the department within 60 days after the effective date of this section or prior to the inception of

operation. The registration expires automatically 2 years after its date of issuance and must be renewed biennially thereafter.

2. The registration form to contain the name, residence, and business address, phone number, and license number of the medical director or clinic director for the clinic.

3. The clinic to display the registration certificate in a conspicuous location within the clinic which is readily visible to all patients.

(3)(a) Each clinic must employ or contract with a physician maintaining a full and unencumbered physician license in accordance with chapter 458, chapter 459, chapter 460, or chapter 461 to serve as the medical director. However, if the clinic is limited to providing health care services pursuant to chapter 457, chapter 484, chapter 486, chapter 490, or chapter 491 or part I, part III, part X, part XIII, or part XIV of chapter 468, the clinic may appoint a health care practitioner licensed under that chapter to serve as the clinic director who is responsible for the clinic's activities. A health care practitioner may not serve as the clinic director if the services provided at the clinic are beyond the scope of that practitioner's license.

(b) The medical director or clinic director must agree in writing to accept responsibility for the following activities on behalf of the clinic. The medical director or the clinic director shall:

1. Have signs identifying the medical director or clinic director posted in a conspicuous location within the clinic which is readily visible to all patients.

2. Ensure that all practitioners providing health care services or supplies to patients maintain a current, active, and unencumbered Florida license.

3. Review any patient-referral contracts or agreements executed by the clinic.

4. Ensure that all health care practitioners at the clinic have active appropriate certification or licensure for the level of care being provided.

5. Serve as the clinic records owner as defined in s. 456.057.

6. Ensure compliance with the recordkeeping, office surgery, and adverse incident reporting requirements of chapter 456, the respective practice acts, and the rules adopted thereunder.

7. Conduct systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful. Upon discovery of an unlawful charge, the medical director or clinic director must take immediate corrective action.

(c) Any contract to serve as a medical director or clinic director entered into or renewed by a physician or licensed health care practitioner in violation of this section is void as contrary to public policy. This section applies to contracts entered into or renewed on or after the effective date of this section.

(d) The department, in consultation with the boards, shall adopt rules specifying limitations on the number of registered clinics and licensees for which a medical director or clinic director may assume responsibility for purposes of this section. In determining the quality of supervision a medical director or clinic director can provide, the department shall consider the number of clinic employees, the clinic location, and the services provided by the clinic.

(4)(a) All charges or reimbursement claims made by or on behalf of a clinic that is required to be registered under this section but that is not so registered are unlawful charges and therefore are noncompensable and unenforceable.

(b) Any person establishing, operating, or managing an unregistered clinic otherwise required to be registered under this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any licensed health care practitioner who violates this section is subject to discipline in accordance with this chapter and the respective practice act.

(d) The department shall revoke the registration of any clinic registered under this section for operating in violation of the requirements of this section or the rules adopted pursuant to this section.

(e) The department shall investigate allegations of noncompliance with this section and the rules adopted pursuant to this section.

Section 104. *The sum of $100,000 is appropriated from the registration fees collected from clinics pursuant to s. 456.0375, Florida Statutes, and one-half of one full-time equivalent position is authorized, to the Department of Health for the purposes of regulating medical clinics pursuant to s. 456.0375, Florida Statutes. The appropriated funds shall be deposited into the Medical Quality Assurance Trust Fund.*

Section 105. Subsection (3) of section 456.031, Florida Statutes, is amended to read:

456.031 Requirement for instruction on domestic violence.—

(3)*(a)* In lieu of completing a course as required in subsection (1), a licensee or certificateholder may complete a course in end-of-life care and palliative health care, if the licensee or certificateholder has completed an approved domestic violence course in the immediately preceding biennium.

(b) In lieu of completing a course as required by subsection (1), a person licensed under chapter 466 who has completed an approved domestic-violence education course in the immediately preceding 2 years may complete a course approved by the Board of Dentistry.

Section 106. Subsection (9) of section 456.033, Florida Statutes, is amended to read:

456.033 Requirement for instruction for certain licensees on human immunodeficiency virus and acquired immune deficiency syndrome.—

(9)*(a)* In lieu of completing a course as required in subsection (1), the licensee may complete a course in end-of-life care and palliative health care, so long as the licensee completed an approved AIDS/HIV course in the immediately preceding biennium.

(b) In lieu of completing a course as required by subsection (1), a person licensed under chapter 466 who has completed an approved AIDS/HIV course in the immediately preceding 2 years may complete a course approved by the Board of Dentistry.

Section 107. (1) Subsection (9) is added to section 627.419, Florida Statutes, to read:

627.419 Construction of policies.—

(9) With respect to any group or individual insurer covering dental services, each claimant, or dentist acting for a claimant, who has had a claim denied as not medically or dentally necessary or who has had a claim payment based on an alternate dental service in accordance with accepted dental standards for adequate and appropriate care must be provided an opportunity for an appeal to the insurer's licensed dentist who is responsible for the medical necessity reviews under the plan or is a member of the plan's peer review group. The appeal may be by telephone, and the insurer's dentist must respond within a reasonable time, not to exceed 15 business days.

(2) This section shall apply to policies issued or renewed on or after July 1, 2001.

Section 108. Paragraph (d) of subsection (3) and paragraph (c) of subsection (6) of section 468.302, Florida Statutes, are amended to read:

468.302 Use of radiation; identification of certified persons; limitations; exceptions.—

(3) Requirement for certification does not apply to:

(d) A person holding a certificate as a general radiographer may not perform nuclear medicine and radiation therapy procedures. A general radiographer may participate in additional approved programs as provided by rule of the department. *However, a person who is a general radiographer certified pursuant to this part who is trained and skilled*

in radiologic technology procedures appropriate to managing patients in the course of radiation therapy treatment and who provides these services while assisting a person registered with the American Registry of Radiologic Technologists in radiation therapy under the general supervision of a physician licensed under chapter 458 or chapter 459 who is trained and skilled in performing radiation therapy treatments, may assist in providing radiation therapy procedures. Such persons must successfully complete a training program in the following areas before performing radiologic technology duties:

1. Principles of radiation therapy treatment;

2. Biological effects of radiation;

3. Radiation exposure and monitoring;

4. Radiation safety and protection;

5. Evaluation and handling of radiographic treatment equipment and accessories; and

6. Patient positioning for radiation therapy treatment.

(6) Requirement for certification does not apply to:

(c) A person who is trained and skilled in *invasive cardiovascular* ~~cardiopulmonary~~ technology*, including the radiologic technology duties associated with these procedures,* and who provides *invasive cardiovascular* ~~cardiopulmonary~~ technology services at the direction, and under the direct supervision, of a licensed practitioner *who is trained and skilled in performing invasive cardiovascular procedures. Such persons must have successfully completed a didactic and clinical training program in the following areas before performing radiologic technology duties:*

1. Principles of X-ray production and equipment operation.

2. Biological effects of radiation.

3. Radiation exposure and monitoring.

4. Radiation safety and protection.

5. Evaluation of radiographic equipment and accessories.

6. Radiographic exposure and technique factors.

7. Film processing.

8. Image quality assurance.

9. Patient positioning.

10. Administration and complications of contrast media.

11. Specific fluoroscopic and digital X-ray imaging procedures related to invasive cardiovascular technology.

Section 109. Subsections (8) and (9) of section 468.352, Florida Statutes, are amended to read:

468.352 Definitions.—As used in this part, unless the context otherwise requires, the term:

(8) "*Registered* respiratory therapist" means any person licensed pursuant to this part who is employed to deliver respiratory care services under the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by a hospital, other health care provider, or the board, and who functions in situations of unsupervised patient contact requiring individual judgment.

(9) *"Certified respiratory therapist" or* "respiratory care practitioner" means any person licensed pursuant to this part who is employed to deliver respiratory care services under the order of a physician licensed pursuant to chapter 458 or chapter 459, and in accordance with protocols established by a hospital, other health care provider, or the board.

Section 110. Subsections (1) and (2) of section 468.355, Florida Statutes, are amended to read:

468.355 Eligibility for licensure; temporary licensure.—

(1) To be eligible for licensure by the board as a *certified respiratory therapist* ~~respiratory care practitioner~~, an applicant must:

(a) Be at least 18 years old.

(b) Possess a high school diploma or a graduate equivalency diploma.

(c) Meet at least one of the following criteria:

1. The applicant has successfully completed a training program for respiratory therapy technicians or respiratory therapists approved by the Commission on Accreditation of Allied Health Education Programs, or the equivalent thereof, as accepted by the board.

2. The applicant is currently a "Certified Respiratory *Therapist* ~~Therapy Technician~~" certified by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

3. The applicant is currently a "Registered Respiratory Therapist" registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

The criteria set forth in subparagraphs 2. and 3. notwithstanding, the board shall periodically review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

(2) To be eligible for licensure by the board as a *registered* respiratory therapist, an applicant must:

(a) Be at least 18 years old.

(b) Possess a high school diploma or a graduate equivalency diploma.

(c) Meet at least one of the following criteria:

1. The applicant has successfully completed a training program for *registered* respiratory therapists approved by the Commission on Accreditation of Allied Health Education Programs, or the equivalent thereof, as accepted by the board.

2. The applicant is currently a "Registered Respiratory Therapist" registered by the National Board for Respiratory Care, or the equivalent thereof, as accepted by the board.

The criteria set forth in subparagraphs 1. and 2. notwithstanding, the board shall periodically review the examinations and standards of the National Board for Respiratory Care and may reject those examinations and standards if they are deemed inappropriate.

Section 111. Section 468.357, Florida Statutes, is amended to read:

468.357 Licensure by examination.—

(1) A person who desires to be licensed as a *certified respiratory therapist* ~~respiratory care practitioner~~ may submit an application to take the examination, in accordance with board rule.

(a) Each applicant may take the examination who is determined by the board to have:

1. Completed the application form and remitted the applicable fee set by the board;

2. Submitted required documentation as required in s. 468.355; and

3. Remitted an examination fee set by the examination provider.

(b) Examinations for licensure of *certified respiratory therapist* ~~respiratory care practitioners~~ must be conducted no less than two times a year in such geographical locations or by such methods as are deemed advantageous to the majority of the applicants.

(c) The examination given for *certified respiratory therapist* ~~respiratory care practitioners~~ shall be the same as that given by the National Board for Respiratory Care for entry-level certification of respiratory *therapists* ~~therapy technicians~~. However, an equivalent examination may be accepted by the board in lieu of that examination.

(2) Each applicant who passes the examination shall be entitled to licensure as a *certified respiratory therapist* ~~respiratory care practitioner~~, and the department shall issue a license pursuant to this part to any applicant who successfully completes the examination in accordance with this section. However, the department shall not issue a license to any applicant who is under investigation in another jurisdiction for an offense which would constitute a violation of this part. Upon completion of such an investigation, if the applicant is found guilty of such an offense, the applicable provisions of s. 468.365 will apply.

Section 112. Subsections (1) and (2) of section 468.358, Florida Statutes, are amended to read:

468.358 Licensure by endorsement.—

(1) Licensure as a *certified respiratory therapist* ~~respiratory care practitioner~~ shall be granted by endorsement to an individual who holds the "Certified Respiratory *Therapist* ~~Therapy Technician~~" credential issued by the National Board for Respiratory Care or an equivalent credential acceptable to the board. Licensure by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

(2) Licensure as a *registered* respiratory therapist shall be granted by endorsement to an individual who holds the "Registered Respiratory Therapist" credential issued by the National Board for Respiratory Care or an equivalent credential acceptable to the board. Licensure by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

Section 113. Section 468.359, Florida Statutes, is amended to read:

468.359 Assumption of title and use of abbreviations.—

(1) Only persons who are licensed pursuant to this part as respiratory care practitioners have the right to use the title "Respiratory Care Practitioner" and the abbreviation "RCP."

(2) Only persons who are licensed pursuant to this part as *registered* respiratory therapists have the right to use the title "Registered Respiratory Therapist" and the abbreviation "RRT~~,~~" *when delivering services pursuant to this part* ~~provided such persons have passed the Registry Examination for Respiratory Therapists given by the National Board for Respiratory Care~~.

(3) Only persons who are *licensed pursuant to this part as certified respiratory therapists have the right to use the title "Certified Respiratory Therapist" and the abbreviation "CRT" when delivering services pursuant to this part.* ~~graduates of board-approved programs for respiratory care practitioners may use the term "Graduate Respiratory Therapy Technician" and the abbreviation "GRTT."~~

~~(4) Only persons who are graduates of board-approved programs for respiratory therapists may use the term "Graduate Respiratory Therapist" and the abbreviation "GRT."~~

(4)~~(5)~~ No person in this state shall deliver respiratory care services; advertise as, or assume the title of, respiratory care practitioner*, certified respiratory therapist,* or *registered* respiratory therapist; or use the abbreviation "RCP*," "CRT," or "RRT" that would lead the public to believe that such person is licensed pursuant to this part unless such person is so licensed;* or take any other action that would lead the public to believe that such person is licensed pursuant to this part unless such person is so licensed.

Section 114. Subsections (2), (3), and (4) of section 468.1155, Florida Statutes, are amended to read:

468.1155 Provisional license; requirements.—

(2) The department shall issue a provisional license to practice speech-language pathology to each applicant who the board certifies has:

(a) Completed the application form and remitted the required fees, including a nonrefundable application fee.

(b) Received a master's degree or *is currently enrolled in a* doctoral degree *program* with a major emphasis in speech-language pathology from an institution of higher learning which *is*, *or* at the time the applicant was enrolled and graduated~~,~~ was*,* accredited by an accrediting agency recognized by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation or from an institution which is ~~publicly recognized as~~ a member in good standing with the Association of Universities and Colleges of Canada. An applicant who graduated from *or is currently enrolled in* a program at a university or college outside the United States or Canada must present documentation of the determination of equivalency to standards established by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation in order to qualify. The applicant must have completed 60 semester hours that include:

1. Fundamental information applicable to the normal development and use of speech, hearing, and language; information about training in management of speech, hearing, and language disorders; and information supplementary to these fields.

2. Six semester hours in audiology.

3. Thirty of the required 60 semester hours in courses acceptable toward a graduate degree by the college or university in which these courses were taken, of which 24 semester hours must be in speech-language pathology.

(c) Completed 300 supervised clinical clock hours with 200 clock hours in the area of speech-language pathology *or completed the number of clock hours required by an accredited institution meeting national certification standards*. The supervised clinical clock hours shall be completed within the training institution or one of its cooperating programs.

(3) The department shall issue a provisional license to practice audiology to each applicant who the board certifies has:

(a) Completed the application form and remitted the required fees, including a nonrefundable application fee.

(b) Received a master's degree or *is currently enrolled in a* doctoral degree *program* with a major emphasis in audiology from an institution of higher learning which *is, or* at the time the applicant was enrolled and graduated was*,* accredited by an accrediting agency recognized by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation or from an institution which is ~~publicly recognized as~~ a member in good standing with the Association of Universities and Colleges of Canada. An applicant who graduated from *or is currently enrolled in* a program at a university or college outside the United States or Canada must present documentation of the determination of equivalency to standards established by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation in order to qualify. The applicant must have completed 60 semester hours that include:

1. Fundamental information applicable to the normal development and use of speech, hearing, and language; information about training in management of speech, hearing, and language disorders; and information supplementary to these fields.

2. Six semester hours in speech-language pathology.

3. Thirty of the required 60 semester hours in courses acceptable toward a graduate degree by the college or university in which these courses were taken, of which 24 semester hours must be in audiology.

(c) Completed 300 supervised clinical clock hours with 200 clock hours in the area of audiology *or completed the number of clock hours required by an accredited institution meeting national certification*

standards. The supervised clinical clock hours shall be completed within the training institution or one of its cooperating programs.

(4) An applicant ~~for a provisional license~~ who has received a master's degree or *is currently enrolled in a* doctoral degree *program* with a major emphasis in speech-language pathology as provided in subsection (2), or audiology as provided in subsection (3), and who seeks licensure in the area in which the applicant is not currently licensed, must have completed 30 semester hours in courses acceptable toward a graduate degree and 200 supervised clinical clock hours in the second discipline from an accredited institution.

Section 115. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 468.1215, Florida Statutes, are amended to read:

468.1215 Speech-language pathology assistant and audiology assistant; certification.—

(1) The department shall issue a certificate as a speech-language pathology assistant to each applicant who the board certifies has:

(b) Earned a bachelor's degree from a college or university accredited by a regional association of colleges and schools recognized by the Department of Education which includes at least 24 semester hours of coursework as approved by the board at an institution accredited by an accrediting agency recognized by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation.

(2) The department shall issue a certificate as an audiology assistant to each applicant who the board certifies has:

(b) Completed at least 24 semester hours of coursework as approved by the board at an institution accredited by an accrediting agency recognized by the *Council for Higher Education* ~~Commission on Recognition of Postsecondary~~ Accreditation.

Section 116. Subsection (3) of section 480.033, Florida Statutes, is amended to read:

480.033 Definitions.—As used in this act:

(3) "Massage" means the manipulation of the *soft* ~~superficial~~ tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.

Section 117. Subsection (3) of section 484.002, Florida Statutes, is amended, and subsections (8) and (9) are added to that section, to read:

484.002 Definitions.—As used in this part:

(3) "Opticianry" means the preparation and dispensing of lenses, spectacles, eyeglasses, contact lenses, and other optical devices to the intended user or agent thereof, upon the written prescription of a *licensed allopathic or osteopathic physician* ~~medical doctor~~ or optometrist who is duly licensed to practice or upon presentation of a duplicate prescription. The selection of frame designs, the actual sales transaction, and the transfer of physical possession of lenses, spectacles, eyeglasses, contact lenses, and other optical devices subsequent to performance of all services of the optician shall not be considered the practice of opticianry; however, such physical possession shall not be transferred until the optician has completed the fitting of the optical device upon the customer. The practice of opticianry also includes the duplication of lenses accurately as to power, without prescription. A board-certified optician qualified and operating under rules established by the board may fill, fit, adapt, or dispense any soft contact lens prescription. Such optician may fill, fit, adapt, or dispense any extended wear or hard contact lens prescription to the extent authorized to do so by the prescribing *allopathic or osteopathic physician* ~~medical doctor~~ or optometrist.

(8) "Contact lenses" means a prescribed medical device intended to be worn directly against the cornea of the eye to correct vision conditions, act as a therapeutic device, or provide a cosmetic effect.

(9) "Optical dispensing" means interpreting but not altering a prescription of a licensed physician or optometrist and designing, adapting, fitting, or replacing the prescribed optical aids, pursuant to such prescription, to or for the intended wearer, duplicating lenses, accurately as to power without a prescription and duplicating nonprescription eyewear and parts of eyewear. "Optical dispensing" does not include selecting frames, transferring an optical aid to the wearer after an optician has completed fitting it, or providing instruction in the general care and use of an optical aid, including placement, removal, hygiene, or cleaning.

Section 118. Subsection (2) of section 484.006, Florida Statutes, is amended to read:

484.006 Certain rules prohibited.—

(2) No rule or policy of the board shall prohibit any optician from practicing jointly with optometrists or *allopathic or osteopathic physicians* ~~medical doctors~~ licensed in this state.

Section 119. Subsections (1) and (2) of section 484.012, Florida Statutes, are amended to read:

484.012 Prescriptions; filing; duplication of prescriptions; duplication of lenses.—

(1) Any prescription written by a duly licensed *allopathic or osteopathic physician* ~~medical doctor~~ or optometrist for any lenses, spectacles, eyeglasses, contact lenses, or other optical devices shall be kept on file for a period of 2 years with the optical establishment that fills such prescription. However, the licensed optician may maintain a copy of the prescription.

(2) Upon request by the intended user of the prescribed lenses, spectacles, eyeglasses, contact lenses, or other optical devices, or by an agent of the intended user, the optician who fills the original prescription shall duplicate, on a form prescribed by rule of the board, the original prescription. However, for medical reasons only, the prescribing *allopathic or osteopathic physician* ~~medical doctor~~ or optometrist may, upon the original prescription, prohibit its duplication. Any duplication shall be considered a valid prescription to be filled for a period of 5 years from the date of the original prescription, except that a contact lens prescription shall be considered a valid prescription to be filled for a period of 2 years from the date of the original prescription.

Section 120. Section 484.015, Florida Statutes, is amended to read:

484.015 Authority to inspect.—Duly authorized agents and employees of the department shall have the power to inspect in a lawful manner at all reasonable hours *an* ~~any~~ establishment *of any kind* in the state in which lenses, spectacles, eyeglasses, contact lenses, and any other optical devices are prepared *or* ~~and~~ dispensed, for the purposes of:

(1) Determining if any provision of this part, or any rule promulgated under its authority, is being violated;

(2) Securing samples or specimens of any lenses, spectacles, eyeglasses, contact lenses, or other optical devices, after paying or offering to pay for such sample or specimen; or

(3) Securing such other evidence as may be needed for prosecution under this part.

Section 121. Section 484.013, Florida Statutes, is amended to read:

484.013 Violations and penalties.—

(1) It is unlawful for any person:

(a) To *intentionally* make a false or fraudulent statement, either for herself or himself or for another person, in any application, affidavit, or statement presented to the board or in any proceeding before the board.

(b) To prepare or dispense lenses, spectacles, eyeglasses, contact lenses, or other optical devices when such person is not licensed as an optician in this state.

(c) To prepare or dispense lenses, spectacles, eyeglasses, contact lenses, or other optical devices without first being furnished with a prescription as provided for in s. 484.012.

(2) It is unlawful for any person other than an optician licensed under this part to use the title "optician" or otherwise lead the public to believe that she or he is engaged in the practice of opticianry.

(3) It is unlawful for any optician to engage in the diagnosis of the human eyes, attempt to determine the refractive powers of the human eyes, or, in any manner, attempt to prescribe for or treat diseases or ailments of human beings.

(4) It is unlawful for any person to open or operate, either alone or with any other person or persons, an optical establishment which does not have the permit required by this part.

(5)*(a) Except as otherwise provided in paragraph (b), any*~~Any~~ person who *knowingly* violates *any* ~~a~~ provision of this section commits a *felony* ~~misdemeanor~~ of the *third* ~~second~~ degree, punishable as provided in s. 775.082*,* ~~or~~ s. 775.083*, or s. 775.084*.

(b) A person who knowingly violates paragraph (1)(c) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 122. Paragraph (g) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920(2)	3rd	Medicaid provider fraud.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(9)	3rd	Practicing medical physics without a license.
484.013(1)(c)	*3rd*	*Preparing or dispensing optical devices without a prescription.*
484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by money transmitter.
560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd	Killing of human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code inspector.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.

Florida Statute	Felony Degree	Description
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
812.014(2)(a)	1st	Property stolen, valued at $100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $20,000 or more, but less than $100,000.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
872.06	2nd	Abuse of a dead human body.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility or school.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(i)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less then 5 kilograms.
893.135 (1)(j)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.

Section 123. Subsection (1) of section 484.0445, Florida Statutes, is amended to read:

484.0445 Training program.—

(1) The board shall establish by rule a training program *for a minimum* ~~not to exceed~~ 6 months in length, which may include a board-approved home study course. ~~Upon submitting to the department the registration fee, the applicant may register and enter the training program. Upon completion of the training program, the trainee shall take the first available written and practical examinations offered by the department. The department shall administer the written and practical examinations as prescribed by board rule. If the trainee fails either the written or the practical examination, she or he may repeat the training program one time and retake the failed examination, provided she or he takes the next available examination. No person may remain in trainee status or further perform any services authorized for a trainee if she or he fails either the written or the practical examination twice; but, a trainee may continue to function as a trainee until she or he has received the results of the examinations. Any applicant who has failed an examination twice and is no longer functioning as a trainee shall be eligible for reexamination as provided in s. 484.045(2).~~

Section 124. Section 484.045, Florida Statutes, is amended to read:

484.045 Licensure by examination.—

(1) Any person desiring to be licensed as a hearing aid specialist shall apply to the department *on a form approved by the department* ~~to take the licensure examination, which shall include a clinical practical component~~.

(2) The department shall *license* ~~examine~~ each applicant who the board certifies:

(a) Has completed the application form and remitted the *required fees* ~~applicable fee to the board and has paid the examination fee~~;

(b) Is of good moral character;

(c) Is 18 years of age or older;

(d) Is a graduate of an accredited high school or its equivalent; ~~and~~

(e)1. Has met the requirements *of the training program* ~~set forth in s. 484.0445~~; or

2.a. Has a valid, current license as a hearing aid specialist or its equivalent from another state and has been actively practicing in such capacity for at least 12 months; or

b. Is currently certified by the National Board for Certification in Hearing Instrument Sciences and has been actively practicing for at least 12 months. ~~Persons qualifying under this sub-subparagraph need not take the written or practical examination, but must take and pass a test on Florida laws and rules relating to the fitting and dispensing of hearing aids.~~

(f) Has passed an examination, as prescribed by board rule; and

(g) Has demonstrated, in a manner designated by rule of the board, knowledge of state laws and rules relating to the fitting and dispensing of hearing aids.

(3) A person who fails the examination may make application for reexamination to the appropriate examining entity, as prescribed by board rule.

~~(2) On or after October 1, 1990, every applicant who is qualified to take the examination shall be allowed to take the examination three times. If, after October 1, 1990, an applicant fails the examination three times, the applicant shall no longer be eligible to take the examination.~~

~~(3) The department shall issue a license to practice dispensing hearing aids to any applicant who successfully completes the examination in accordance with this section.~~

Section 125. Effective January 1, 2002, subsection (1) of section 490.012, Florida Statutes, is amended to read:

490.012 Violations; penalties; injunction.—

(1)(a) No person shall hold herself or himself out by any professional title, name, or description incorporating the word "psychologist" unless such person holds a valid, active license as a psychologist under this chapter.

(b) No person shall hold herself or himself out by any professional title, name, or description incorporating the words "school psychologist" unless such person holds a valid, active license as a school psychologist under this chapter or is certified as a school psychologist by the Department of Education.

(c)~~(1)(a)~~ No person shall hold herself or himself out by any title or description incorporating the words, or permutations of them, ~~"psychologist,"~~ "psychology," "psychological," *or* "psychodiagnostic," ~~or "school psychologist,"~~ or describe any test or report as psychological, unless such person holds a valid, active license under this chapter or is exempt from the provisions of this chapter.

(d)~~(b)~~ No person shall hold herself or himself out by any title or description incorporating the word, or a permutation of the word, "psychotherapy" unless such person holds a valid, active license under chapter 458, chapter 459, chapter 490, or chapter 491, or such person is certified as an advanced registered nurse practitioner, pursuant to s. 464.012, who has been determined by the Board of Nursing as a specialist in psychiatric mental health.

(e)~~(c)~~ No person licensed or provisionally licensed pursuant to this chapter shall hold herself or himself out by any title or description which indicates licensure other than that which has been granted to her or him.

Section 126. Effective January 1, 2002, section 490.014, Florida Statutes, is amended to read:

490.014 Exemptions.—

(1)(a) No provision of this chapter shall be construed to limit the practice of physicians licensed pursuant to chapter 458 or chapter 459 so long as they do not hold themselves out to the public as psychologists or use a professional title protected by this chapter.

(b) No provision of this chapter shall be construed to limit the practice of nursing, clinical social work, marriage and family therapy, mental health counseling, or other recognized businesses or professions, or to prevent qualified members of other professions from doing work of a nature consistent with their training, so long as they do not hold themselves out to the public as psychologists or use a title *or description* protected by this chapter. Nothing in this subsection shall be construed to exempt any person from the provisions of s. 490.012.

(2) No person shall be required to be licensed or provisionally licensed under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter 39; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution*, so long as the employee is not held out to the public as a psychologist pursuant to s. 490.012(1)(a)* .

(b) Is a salaried employee of a private, nonprofit organization providing counseling services to children, youth, and families, if such services are provided for no charge, if such employee is performing duties for which he or she was trained and hired*, so long as the employee is not held out to the public as a psychologist pursuant to s. 490.012(1)(a)*.

(c) Is a student who is pursuing a course of study which leads to a degree in medicine or a profession regulated by this chapter who is providing services in a training setting, provided such activities or services constitute part of a supervised course of study, or is a graduate accumulating the experience required for any licensure under this chapter, provided such graduate or student is designated by a title such as "intern" or "trainee" which clearly indicates the in-training status of the student.

(d) Is certified in school psychology by the Department of Education and is performing psychological services as an employee of a public or private educational institution. Such exemption shall not be construed to authorize any unlicensed practice which is not performed as a direct employee of an educational institution.

(e) Is not a resident of the state but offers services in this state, provided:

1. Such services are performed for no more than 5 days in any month and no more than 15 days in any calendar year; and

2. Such nonresident is licensed or certified by a state or territory of the United States, or by a foreign country or province, the standards of which were, at the date of his or her licensure or certification, equivalent to or higher than the requirements of this chapter in the opinion of the department or, in the case of psychologists, in the opinion of the board.

(f) Is a rabbi, priest, minister, or member of the clergy of any religious denomination or sect when engaging in activities which are within the scope of the performance of his or her regular or specialized ministerial duties and for which no separate charge is made, or when such activities are performed, with or without charge, for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination, or sect, and when the person rendering service remains accountable to the established authority thereof.

(3) No provision of this chapter shall be construed to limit the practice of any individual who solely engages in behavior analysis so long as he or she does not hold himself or herself out to the public as possessing a license issued pursuant to this chapter or use a title *or description* protected by this chapter.

(4) Nothing in this section shall exempt any person from the *provisions* ~~provision~~ of s. 490.012(1)*(a)-(b)* ~~(a)-(b)~~.

(5) Except as stipulated by the board, the exemptions contained in this section do not apply to any person licensed under this chapter whose license has been suspended or revoked by the board or another jurisdiction.

Section 127. Effective January 1, 2002, paragraphs (i), (j), and (k) of subsection (1) of section 491.012, Florida Statutes, are amended to read:

491.012 Violations; penalty; injunction.—

(1) It is unlawful and a violation of this chapter for any person to:

(i) Practice clinical social work in this state~~, as the practice is defined in s. 491.003(7),~~ for compensation, unless the person holds a valid, active license to practice clinical social work issued pursuant to this chapter *or is an intern registered pursuant to s. 491.0045*.

(j) Practice marriage and family therapy in this state, ~~as the practice is defined in s. 491.003(8),~~ for compensation, unless the person holds a valid, active license to practice marriage and family therapy issued pursuant to this chapter *or is an intern registered pursuant to s. 491.0045*.

(k) Practice mental health counseling in this state, ~~as the practice is defined in s. 491.003(9),~~ for compensation, unless the person holds a valid, active license to practice mental health counseling issued pursuant to this chapter *or is an intern registered pursuant to s. 491.0045*.

Section 128. Effective January 1, 2002, paragraphs (a) and (b) of subsection (4) of section 491.014, Florida Statutes, are amended to read:

491.014 Exemptions.—

(4) No person shall be required to be licensed, provisionally licensed, registered, or certified under this chapter who:

(a) Is a salaried employee of a government agency; developmental services program, mental health, alcohol, or drug abuse facility operating pursuant to chapter 393, chapter 394, or chapter 397; subsidized child care program, subsidized child care case management program, or child care resource and referral program operating pursuant to chapter 402; child-placing or child-caring agency licensed pursuant to chapter 409; domestic violence center certified pursuant to chapter 39; accredited academic institution; or research institution, if such employee is performing duties for which he or she was trained and hired solely within the confines of such agency, facility, or institution*, so long as the employee is not held out to the public as a clinical social worker, mental health counselor, or marriage and family therapist*.

(b) Is a salaried employee of a private, nonprofit organization providing counseling services to children, youth, and families, if such services are provided for no charge, if such employee is performing duties for which he or she was trained and hired*, so long as the employee is not held out to the public as a clinical social worker, mental health counselor, or marriage and family therapist*.

Section 129. Subsection (4) of section 458.319, Florida Statutes, is amended to read:

458.319 Renewal of license.—

(4) Notwithstanding the provisions of s. 456.033, a physician may complete continuing education on end-of-life care and palliative ~~health~~ care in lieu of continuing education in AIDS/HIV, if that physician has completed the AIDS/HIV continuing education in the immediately preceding biennium.

Section 130. Subsection (5) of section 459.008, Florida Statutes, is amended to read:

459.008 Renewal of licenses and certificates.—

(5) Notwithstanding the provisions of s. 456.033, an osteopathic physician may complete continuing education on end-of-life and palliative ~~health~~ care in lieu of continuing education in AIDS/HIV, if that physician has completed the AIDS/HIV continuing education in the immediately preceding biennium.

Section 131. Subsection (4) of section 765.101, Florida Statutes, is amended to read:

765.101 Definitions.—As used in this chapter:

(4) "End-stage condition" means *an irreversible* ~~a~~ condition that is caused by injury, disease, or illness which has resulted in *progressively* severe and permanent deterioration, ~~indicated by incapacity and complete physical dependency~~ and ~~for~~ which, to a reasonable degree of medical *probability* ~~certainty~~, treatment of the ~~irreversible~~ condition would be ~~medically~~ ineffective.

Section 132. Subsection (4) of section 765.102, Florida Statutes, is amended to read:

765.102 Legislative findings and intent.—

(4) The Legislature recognizes the need for all health care professionals to rapidly increase their understanding of end-of-life and palliative ~~health~~ care. Therefore, the Legislature encourages the professional regulatory boards to adopt appropriate standards and guidelines regarding end-of-life care and pain management and encourages educational institutions established to train health care professionals and allied health professionals to implement curricula to train such professionals to provide end-of-life care, including pain management and palliative care.

Section 133. Section 765.1025, Florida Statutes, is created to read:

765.1025 Palliative care.—For purposes of this chapter:

(1) Palliative care is the comprehensive management of the physical, psychological, social, spiritual, and existential needs of patients. Palliative care is especially suited to the care of persons who have incurable, progressive illness.

(2) Palliative care must include:

(a) An opportunity to discuss and plan for end-of-life care.

(b) Assurance that physical and mental suffering will be carefully attended to.

(c) Assurance that preferences for withholding and withdrawing life-sustaining interventions will be honored.

(d) Assurance that the personal goals of the dying person will be addressed.

(e) Assurance that the dignity of the dying person will be a priority.

(f) Assurance that health care providers will not abandon the dying person.

(g) Assurance that the burden to family and others will be addressed.

(h) Assurance that advance directives for care will be respected regardless of the location of care.

(i) Assurance that organizational mechanisms are in place to evaluate the availability and quality of end-of-life, palliative, and hospice care services, including the evaluation of administrative and regulatory barriers.

(j) Assurance that necessary health care services will be provided and that relevant reimbursement policies are available.

(k) Assurance that the goals expressed in paragraphs (a)-(j) will be accomplished in a culturally appropriate manner.

Section 134. Subsection (2) of section 765.1103, Florida Statutes, is amended to read:

765.1103 Pain management and palliative care.—

(2) *Health care providers and practitioners regulated under chapter 458, chapter 459, or chapter 464 must, as appropriate, comply with a request for pain management or palliative care from a patient under their care or, for an incapacitated patient under their care, from a surrogate, proxy, guardian, or other representative permitted to make health care decisions for the incapacitated patient. Facilities regulated under chapter 400 or chapter 395 must comply with the pain management or palliative care measures ordered by the patient's physician.* ~~When the patient is receiving care as an admitted patient of a facility or a provider or is a subscriber of a health care facility, health care provider, or health care practitioner regulated under chapter 395, chapter 400, chapter 458, chapter 459, chapter 464, or chapter 641, such facility, provider, or practitioner must, when appropriate, comply with a request for pain management or palliative care from a capacitated patient or an incapacitated patient's health care surrogate or proxy, court-appointed guardian as provided in chapter 744, or attorney in fact as provided in chapter 709. The court-appointed guardian or attorney in fact must have been delegated authority to make health care decisions on behalf of the patient.~~

Section 135. Paragraph (b) of subsection (1) of section 765.205, Florida Statutes, is amended to read:

765.205 Responsibility of the surrogate.—

(1) The surrogate, in accordance with the principal's instructions, unless such authority has been expressly limited by the principal, shall:

(b) Consult expeditiously with appropriate health care providers to provide informed consent, and make only health care decisions for the principal which he or she believes the principal would have made under the circumstances if the principal were capable of making such decisions. *If there is no indication of what the principal would have chosen, the surrogate may consider the patient's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.*

Section 136. Subsections (2) and (3) of section 765.401, Florida Statutes, are amended to read:

765.401 The proxy.—

(2) Any health care decision made under this part must be based on the proxy's informed consent and on the decision the proxy reasonably believes the patient would have made under the circumstances. *If there is no indication of what the patient would have chosen, the proxy may consider the patient's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.*

(3) Before exercising the incapacitated patient's rights to select or decline health care, the proxy must comply with the provisions of ss. 765.205 and 765.305, except that a proxy's decision to withhold or withdraw life-prolonging procedures must be supported by clear and convincing evidence that the decision would have been the one the patient would have chosen had the patient been competent *or, if there is no indication of what the patient would have chosen, that the decision is in the patient's best interest*.

Section 137. *The Legislature finds that the area of specialty training is of great importance to the citizens of this state and that specialty training and certification creates a higher level of proficiency for the practitioner and improves the delivery of health care to Floridians. Because much confusion exists among the patient population and practitioners as to the requirements for board certification, the Legislature directs the Department of Health to conduct a study of the area of specialty certification relating to the Board of Medicine, the Board of Osteopathic Medicine, and the Board of Dentistry. The study should review current statutes and rules to determine if any barriers exist in board recognition of certifying organizations and if restrictions placed on a licensee's speech both target an identifiable harm and mitigate against such harm in a direct and effective manner. A final report shall be provided no later than January 1, 2002, to the President of the Senate and the Speaker of the House of Representatives for distribution to the chairs of the health-care-related committees.*

Section 138. Paragraph (d) of subsection (2) of section 499.012, Florida Statutes, is amended to read:

499.012 Wholesale distribution; definitions; permits; general requirements.—

(2) The following types of wholesaler permits are established:

(d) A retail pharmacy wholesaler's permit. A retail pharmacy wholesaler is a retail pharmacy engaged in wholesale distribution of prescription drugs within this state under the following conditions:

1. The pharmacy must obtain a retail pharmacy wholesaler's permit pursuant to ss. 499.001-499.081 and the rules adopted under those sections.

2. The wholesale distribution activity does not exceed 30 percent of the total annual purchases of prescription drugs. If the wholesale distribution activity exceeds the 30-percent maximum, the pharmacy must obtain a prescription drug wholesaler's permit.

3. The transfer of prescription drugs that appear in any schedule contained in chapter 893 is subject to chapter 893 and the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

4. The transfer is between a retail pharmacy and another retail pharmacy*, a Modified Class II institutional pharmacy,* or a health care practitioner licensed in this state and authorized by law to dispense or prescribe prescription drugs.

5. All records of sales of prescription drugs subject to this section must be maintained separate and distinct from other records and comply with the recordkeeping requirements of ss. 499.001-499.081.

Section 139. *The Legislature finds that personal identifying information, name, age, diagnosis, address, bank account numbers, and debit and credit card numbers contained in the records relating to an individual's personal health or eligibility for health-related services made or received by the individual's physician and public or private health facility should be held confidential. Furthermore, the Legislature finds that every person has an expectation of and a right to privacy in all matters concerning her or his personal health when medical services are provided. Matters of personal health are traditionally private and confidential concerns between the patient and the health care provider. The private and confidential nature of personal health matters pervades both the public and private sectors. For these reasons, it is the express intent of the Legislature to protect confidential information and the individual's expectations of the right to privacy in all matters regarding her or his personal health and not to have such information exploited for purposes of solicitation or marketing the sale of goods and services.*

Section 140. Subsection (5) of section 456.057, Florida Statutes, is amended to read:

456.057 Ownership and control of patient records; report or copies of records to be furnished.—

(5)*(a)* Except as otherwise provided in this section and in s. 440.13(4)(c), such records may not be furnished to, and the medical condition of a patient may not be discussed with, any person other than the patient or the patient's legal representative or other health care practitioners and providers involved in the care or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization under the following circumstances:

1.~~(a)~~ To any person, firm, or corporation that has procured or furnished such examination or treatment with the patient's consent.

2.~~(b)~~ When compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the

medical records shall be furnished to both the defendant and the plaintiff.

3.~~(c)~~ In any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or the patient's legal representative by the party seeking such records.

4.~~(d)~~ For statistical and scientific research, provided the information is abstracted in such a way as to protect the identity of the patient or provided written permission is received from the patient or the patient's legal representative.

(b) Absent a specific written release or authorization permitting utilization of patient information for solicitation or marketing the sale of goods or services, any use of that information for those purposes is prohibited.

(14) Licensees in violation of the provisions of this section shall be disciplined by the appropriate licensing authority.

(15) The Attorney General is authorized to enforce the provisions of this section for records owners not otherwise licensed by the state, through injunctive relief and fines not to exceed $5,000 per violation.

Section 141. Subsection (7) of section 395.3025, Florida Statutes is amended to read:

395.3025 Patient and personnel records; copies; examination.—

(7)*(a)* If the content of any record of patient treatment is provided under this section, the recipient, if other than the patient or the patient's representative, may use such information only for the purpose provided and may not further disclose any information to any other person or entity, unless expressly permitted by the written consent of the patient. A general authorization for the release of medical information is not sufficient for this purpose. The content of such patient treatment record is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Absent a specific written release or authorization permitting utilization of patient information for solicitation or marketing the sale of goods or services, any use of that information for those purposes is prohibited.

Section 142. Subsection (1) of section 400.1415, Florida Statutes, is amended to read:

400.1415 Patient records; penalties for alteration.—

(1) Any person who fraudulently alters, defaces, or falsifies any medical *record or releases medical records for the purposes of solicitation or marketing the sale of goods or services absent a specific written release or authorization permitting utilization of patient information,* or other nursing home record, or causes or procures any of these offenses to be committed, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 143. Section 626.9651, Florida Statutes, is created to read:

626.9651 Privacy.—The department shall adopt rules consistent with other provisions of the Florida Insurance Code to govern the use of a consumer's nonpublic personal financial and health information. These rules must be based on, consistent with, and not more restrictive than the Privacy of Consumer Financial and Health Information Regulation, adopted September 26, 2000, by the National Association of Insurance Commissioners; however, the rules must permit the use and disclosure of nonpublic personal health information for scientific, medical, or public policy research, in accordance with federal law. In addition, these rules must be consistent with, and not more restrictive than, the standards contained in Title V of the Gramm-Leach-Bliley Act of 1999, Pub. L. No. 106-102. If the department determines that a health insurer or health maintenance organization is in compliance with, or is actively undertaking compliance with, the consumer privacy protection rules adopted by the United States Department of Health and Human Services, in conformance with the Health Insurance Portability and Affordability Act, that health insurer or health maintenance organization is in compliance with this section.

Section 144. Effective upon becoming law, subsections (14), (15), and (16) are added to section 400.141, Florida Statutes, to read:

400.141 Administration and management of nursing home facilities.—Every licensed facility shall comply with all applicable standards and rules of the agency and shall:

(14) Before November 30 of each year, subject to the availability of an adequate supply of the necessary vaccine, provide for immunizations against influenza viruses to all its consenting residents in accordance with the recommendations of the U.S. Centers for Disease Control and Prevention, subject to exemptions for medical contraindications and religious or personal beliefs. Subject to these exemptions, any consenting person who becomes a resident of the facility after November 30 but before March 31 of the following year must be immunized within 5 working days after becoming a resident. Immunization shall not be provided to any resident who provides documentation that he or she has been immunized as required by this subsection. This subsection does not prohibit a resident from receiving the immunization from his or her personal physician if he or she so chooses. A resident who chooses to receive the immunization from his or her personal physician shall provide proof of immunization to the facility. The agency may adopt and enforce any rules necessary to comply with or implement this subsection.

(15) Assess all residents for eligibility for pneumococcal polysaccharide vaccination (PPV) and vaccinate residents when indicated within 60 days after the effective date of this act in accordance with the recommendations of the U.S. Centers for Disease Control and Prevention, subject to exemptions for medical contraindications and religious or personal beliefs. Residents admitted after the effective date of this act shall be assessed within 5 working days of admission and, when indicated, vaccinated within 60 days in accordance with the recommendations of the United States Centers for Disease Control and Prevention, subject to exemptions for medical contradictions and religious or personal beliefs. Immunization shall not be provided to any resident who provides documentation that he or she has been immunized as required by this subsection. This subsection does not prohibit a resident from receiving the immunization from his or her personal physician if he or she so chooses. A resident who chooses to receive the immunization from his or her personal physician shall provide proof of immunization to the facility. The agency may adopt and enforce any rules necessary to comply with or implement this subsection.

(16) Annually encourage and promote to its employees the benefits associated with immunizations against influenza viruses in accordance with the recommendations of the U.S. Centers for Disease Control and Prevention. The agency may adopt and enforce any rules necessary to comply with or implement this subsection.

Facilities that have been awarded a Gold Seal under the program established in s. 400.235 may develop a plan to provide certified nursing assistant training as prescribed by federal regulations and state rules and may apply to the agency for approval of its program.

Section 145. *There is established the Office of Community Partners within the Department of Health for the purpose of receiving, coordinating, and dispensing federal funds set aside to expand the delivery of social services through eligible private community organizations and programs. The office shall provide policy direction and promote civic initiatives which seek to preserve and strengthen families and communities. The Department of Health, the Department of Children and Family Services, the Department of Juvenile Justice, and the Department of Corrections may request transfer of general revenue funds between agencies, as approved by the Legislative Budget Commission, as necessary to match federal funds received by the Office of Community Partners for these initiatives.*

Section 146. Section 627.6474, Florida Statutes, is created to read:

627.6474 Provider contracts.—A health insurer shall not require a contracted health care practitioner as defined in s. 456.001(4) to accept the terms of other health care practitioner contracts with the insurer or

any other insurer, or health maintenance organization, under common management and control with the insurer, including Medicare and Medicaid practitioner contracts and those authorized by s. 627.6471, s. 627.6472, or s. 641.315, except for a practitioner in a group practice as defined in s. 456.053 who must accept the terms of a contract negotiated for the practitioner by the group, as a condition of continuation or renewal of the contract. Any contract provision that violates this section is void. A violation of this section is not subject to the criminal penalty specified in s. 624.15.

Section 147. Subsection (11) is added to section 627.662, Florida Statutes, to read:

627.662 Other provisions applicable.—The following provisions apply to group health insurance, blanket health insurance, and franchise health insurance:

(11) Section 627.6474, relating to provider contracts.

Section 148. Subsection (10) is added to section 641.315, Florida Statutes, to read:

641.315 Provider contracts.—

(10) A health maintenance organization shall not require a contracted health care practitioner as defined in s. 456.001(4) to accept the terms of other health care practitioner contracts with the health maintenance organization or any insurer, or other health maintenance organization, under common management and control with the health maintenance organization, including Medicare and Medicaid practitioner contracts and those authorized by s. 627.6471, s. 627.6472, or s. 641.315, except for a practitioner in a group practice as defined in s. 456.053 who must accept the terms of a contract negotiated for the practitioner by the group, as a condition of continuation or renewal of the contract. Any contract provision that violates this section is void. A violation of this section is not subject to the criminal penalty specified in s. 624.15.

Section 149. The provisions of sections 142-144 of this act shall take effect July 1, 2001, and shall apply to contracts entered into or renewed on or after that date.

Section 150. Except as otherwise provided herein, this act shall take effect July 1, 2001.

And the title is amended as follows:

On page 1, line 2, through page 3, line 24,
remove from the title of the bill: all of said lines

and insert in lieu thereof: An act relating to health care; providing legislative intent and findings with respect to the Medical Quality Assurance Trust Fund and function administered by the Department of Health; requiring the Auditor General to do a followup Medical Quality Assurance audit and issue a report to the Legislature; requiring the Department of Health to reimburse the Agency for Health Care Administration for certain costs; requiring the Office of Program Policy Analysis and Government Accountability to study the feasibility of maintaining the Medical Quality Assurance function within a single department and issue a report to the Legislature; amending s. 456.004, F.S.; providing requirements for rules relating to biennial renewal of licenses; amending s. 456.025, F.S.; revising requirements relating to the setting and use of fees for the regulation of health care professions and practitioners, including continuing education fees; providing for an electronic continuing education tracking system; repealing s. 458.31151, F.S.; repealing obsolete provisions; amending s. 457.107, F.S.; for clarification of acupuncture fees; amending s. 483.807, F.S.; relating to clinical laboratory personnel fees; amending s. 456.011, F.S.; requiring board meetings to be conducted through teleconferencing or other technological means except under certain circumstances; amending s. 456.013, F.S.; requiring the department to charge initial license fees; amending s. 456.017, F.S.; providing for administration of national examinations and termination of state-administered written examinations; providing for administration of state-administered practical or clinical examinations if paid for in advance by the examination candidates; providing legislative intent with respect to the use of national examinations; providing for electronic access to and posting of examination scores under certain conditions; providing for the sharing of examinations or examination item banks with certain entities; clarifying circumstances under which candidates may bring a challenge; providing for electronic administration of certain laws and rules examinations; amending s. 456.035, F.S.; providing for electronic notification of a licensee's current mailing address and place of practice; amending s. 456.073, F.S.; authorizing a letter of guidance in lieu of a finding of probable cause under certain conditions; amending s. 456.081, F.S.; providing for the posting of newsletters on the department's website; amending s. 456.072, F.S.; revising and providing grounds for discipline of licensees; revising and providing disciplinary actions; amending s. 456.079, F.S.; requiring mitigating or aggravating circumstances to be in the final order to be considered in the imposition of penalties; amending ss. 457.109, 458.320, 458.331, 458.345, 458.347, 459.0085, 459.015, 459.022, 460.413, 461.013, 462.14, 463.016, 464.018, 465.008, 465.016, 466.028, 466.037, 467.203, 468.1295, 468.1755, 468.217, 468.365, 468.518, 468.719, 468.811, 478.52, 480.046, 483.825, 483.901, 484.014, 484.056, 486.125, 490.009, and 491.009, F.S.; revising and conforming provisions relating to disciplinary grounds and penalties; repealing s. 483.827, F.S., relating to penalties applicable to clinical laboratories; amending s. 456.065, F.S.; requiring the unlicensed activity fee to be in addition to all other fees collected from each licensee; amending ss. 458.347 and 459.022, F.S.; allowing authorized physician assistants to prescribe any medication not listed on a formulary established by the Council on Physician Assistants; allowing authorized physician assistants to dispense drug samples pursuant to proper prescription; eliminating the formulary committee and revising provisions relating to creation and amendment of the formulary, to conform; amending s. 456.003, F.S.; providing a limitation on the duties of certain boards; providing for the Agency for Health Care Administration to create the Organ Transplant Task Force to study organ transplantation programs; requiring the task force to study and make recommendations on the necessity of the issuance of certificates of need for such programs and funding for organ transplantation; providing a date for the task force to report to the Governor and the Legislature; amending 409.9205, F.S.; transferring positions in the Medicaid Fraud Control Unit of the Department of Legal Affairs to Career Services; amending s. 483.245, F.S.; prohibiting rebate or split-fee arrangements with dialysis facilities for patient referrals to clinical laboratories; providing penalties; amending s. 232.435, F.S.; providing training requirements for a first responder and teacher athletic trainer; amending s. 383.14, F.S.; amending screening requirements for postnatal screening; amending s. 395.0197, F.S.; revising provisions relating to hospital and ambulatory surgical center internal risk management programs; modifying requirements for risk management and prevention education and training; restricting participation of unlicensed persons in surgical procedures; requiring ongoing evaluation of surgical procedures and protocols; eliminating an annual report summarizing facility incident reports and disciplinary actions; requiring the Agency for Health Care Administration to publish website summaries of adverse incident reports; requiring facility reporting of allegations of sexual misconduct by health care practitioners; providing certain civil liability for licensed risk managers; prohibiting intimidation of a risk manager; providing a penalty; amending s. 395.10972, F.S.; increasing membership on the Health Care Risk Management Advisory Council; amending s. 395.701, F.S.; limiting the financial information the agency may require to determine the amount of hospital annual assessments; amending s. 409.905, F.S.; providing that the Agency for Health Care Administration may restrict the provision of mandatory services by mobile providers; amending s. 409.906, F.S.; providing that the agency may restrict or prohibit the provision of services by mobile providers; providing that Medicaid will not provide reimbursement for dental services provided in mobile dental units, except for certain units; amending s. 456.013, F.S.; providing a professional continuing education requirement relating to prevention of medical errors; amending s. 456.057, F.S.; providing for appointment of a records custodian under certain circumstances; amending s. 456.063, F.S.; requiring licensed health care practitioners to report to the Department of Health any allegations of sexual misconduct; amending s. 456.072, F.S.; providing additional grounds for disciplinary actions;

clarifying a penalty involving restriction of professional practice or license; providing additional penalties; requiring assessment of costs related to investigation and prosecution; amending s. 456.073, F.S.; requiring the Department of Health to notify the patient or legal representative of the status of a disciplinary case; requiring the department to provide certain information to the complainant; providing time limitations on the filing of administrative complaints against licensees of the department; amending s. 456.074, F.S.; providing for an emergency order suspending the license of a practitioner for fraud; amending s. 456.077, F.S.; specifying violations for which the Department of Health or a regulatory board may issue citations; amending s. 456.081, F.S.; requiring the Department of Health and regulatory boards to maintain a website containing specified information; creating s. 458.3147, F.S.; providing automatic admission to any medical school in the State University System for military academy students or graduates who qualify for the Medical Corps of the United States military; amending s. 458.315, F.S.; providing that a physician practicing under a temporary certificate is immune from civil liability if acting in good faith as a resonably prudent person and if the injury or damage is not caused by willful misconduct; providing requirements for the Board of Medicine in issuing temporary certificates; amending ss. 458.331 and 459.015, F.S.; conforming language and cross references to changes made by the act; amending s. 641.51, F.S.; revising adverse determination provisions; amending ss. 465.019 and 465.0196, F.S.; requiring institutional pharmacies and special pharmacy permittees that use pharmacy technicians to have a written policy and procedures manual; directing the Department of Health and the Agency for Health Care Administration to review health care practitioner and facility reporting requirements; requiring a report to the Legislature; amending s. 468.1755, F.S.; providing an additional ground for disciplinary action against a nursing home administrator; reenacting ss. 468.1695(3) and 468.1735, F.S., to incorporate said amendment in references; reenacting s. 484.056(1)(a), F.S., relating to disciplinary action against hearing aid specialists, to incorporate the amendment to s. 456.072(1), in a reference; amending s. 766.101, F.S.; providing that a continuous quality improvement committee of a licensed pharmacy is a medical review committee for purposes of immunity from liability, and reenacting ss. 440.105(1)(a) and 626.989(6), F.S., to incorporate said amendment in references; amending s. 766.1115, F.S.; conforming language and cross references to changes made by the act; amending s. 456.047, F.S.; providing intent; revising and providing definitions; revising duties of the Department of Health relating to file maintenance; providing that primary source data verified by the department or its designee may be relied upon to meet accreditation purposes; amending s. 232.61, F.S.; requiring the Florida High School Activities Association to adopt bylaws which require students participating in interscholastic athletic competition or who are candidates for an interscholastic athletic team to satisfactorily pass a medical evaluation prior to participating in interscholastic athletic competition or engaging in practice with an interscholastic athletic team; providing requirements with respect to such evaluation; amending s. 240.4075, F.S.; transferring the Nursing Student Loan Forgiveness Program from the Department of Education to the Department of Health; including public schools, family practice teaching hospitals, and specialty hospitals for children as eligible facilities under the program; exempting such facilities from the fund-matching requirements of the program; amending s. 240.4076, F.S.; transferring the nursing scholarship program from the Department of Education to the Department of Health; providing requirements under the program for students seeking to qualify for a nursing faculty position and receive credit for work in such a position; including nursing homes, hospitals, public schools, colleges of nursing, and community college nursing programs as eligible facilities under the program; transferring powers, duties, functions, rules, records, personnel, property, and appropriations and other funds relating to the Nursing Student Loan Forgiveness Program and the nursing scholarship program from the Department of Education to the Department of Health; amending s. 464.005, F.S.; providing for future relocation of the headquarters of the Board of Nursing; amending s. 464.008, F.S.; revising education requirements for licensure by examination; amending s. 464.009, F.S.; revising requirements for licensure by endorsement; requiring submission of fingerprints for a criminal history check and a fee to cover the costs of such check; providing for an electronic applicant notification process; creating s. 464.0195, F.S.; creating the Florida Center for Nursing and providing its goals; creating s. 464.0196, F.S.; providing for a board of directors; providing for appointment of board members; providing for staggered terms; providing powers and duties; authorizing per diem and travel expenses; creating s. 464.0197, F.S.; declaring state budget support for the center; prohibiting the Board of Nursing from developing any rule relating to faculty/student clinical ratios until a specified time; requiring the Board of Nursing and the Department of Education to submit to the Legislature an implementation plan detailing the impact and cost of any such proposed rule change; amending s. 464.0205, F.S.; deleting the application and processing fee for applicants for a retired volunteer nurse certificate; requiring study by Office of Program Policy Analysis and Government Accountability of the feasibility of maintaining all of Medical Quality Assurance in one state agency; creating s. 456.0375, F.S.; requiring registration of certain clinics; providing requirements, including fees; providing rulemaking authority; requiring medical directors or clinic directors for such clinics and providing their duties and responsibilities; providing an appropriation; amending s. 456.031, F.S.; providing an alternative by which licensees under ch. 466, F.S., relating to dentistry, may comply with a general requirement that they take domestic-violence education courses; amending s. 456.033, F.S.; providing an alternative by which such licensees may comply with a general requirement that they take AIDS/HIV education courses; amending s. 627.419, F.S.; providing for appeals from certain adverse determinations relating to dental service claims; providing applicability; amending s. 468.302, F.S.; revising a provision relating to exemption from certification to use radiation on human beings; amending ss. 468.352, 468.355, 468.357, 468.358, and 468.359, F.S.; revising definitions and provisions relating to licensure and use of titles and abbreviations to correct and conform terminology with respect to respiratory therapists and respiratory care practitioners; amending ss. 468.1155 and 468.1215, F.S.; revising requirements for licensure to practice speech-language pathology or audiology and for certification of speech-language pathology or audiology assistants; amending s. 480.033, F.S.; correcting terminology in the definition of "massage"; amending s. 484.002, F.S.; amending and creating definitions; amending ss. 484.002, 484.006, 484.012, F.S.; replacing references to the term "medical doctor" with the term "allopathic or osteopathic physician"; amending s. 484.015, F.S.; revising inspection authority; amending s. 484.0445, F.S.; removing certain provisions relating to the training program for hearing aid specialists; amending s. 484.045, F.S.; revising requirements for licensure as a hearing aid specialist by examination; amending s. 490.012, F.S.; prohibiting the use of certain titles or descriptions relating to the practice of psychology or school psychology unless properly licensed; providing penalties; amending s. 490.014, F.S.; revising exemptions from regulation under ch. 490, F.S., relating to psychology; correcting a cross reference; amending s. 491.012, F.S.; revising prohibitions against unlicensed practice of clinical social work, marriage and family therapy, and mental health counseling to provide that practice by registered interns is lawful; amending s. 491.014, F.S.; revising exemptions from licensure under ch. 491, F.S., relating to clinical, counseling, and psychotherapy services, to prohibit the use by certain employees of titles, names, or descriptions protected by the chapter; amending ss. 458.319, 459.008, and 765.102, F.S.; conforming terminology relating to palliative care; amending s. 765.101, F.S.; redefining the term "end-stage condition" with respect to health care advance directives; creating s. 765.1025, F.S.; prescribing the content and suitability of palliative care; amending s. 765.1103, F.S.; revising provisions relating to compliance with requests for pain management and palliative care; amending s. 765.205, F.S.; prescribing the standards of decisionmaking to be used in certain circumstances by health care surrogates, persons who have durable powers of attorney for health care, and proxy decisionmakers; amending s. 765.401, F.S.; prescribing the standards of decisionmaking to be used in certain circumstances by proxy decisionmakers; requiring the Department of Health to conduct an interim study on specialty certification and provide a report to the Legislature; amending s. 499.012, F.S.; authorizing transfer of prescription drugs between a retail pharmacy and a Modified Class II institutional pharmacy under a retail pharmacy wholesaler's permit; providing legislative intent; amending ss. 395.3025, 400.1415, and 456.057, F.S.; prohibiting the use

of a patient's medical records for purposes of solicitation and marketing absent a specific written release or authorization; providing penalties; creating s. 626.9651, F.S.; requiring the Department of Insurance to adopt rules governing the use of a consumer's nonpublic personal financial and health information; providing standards for the rules; amending s. 400.141, F.S.; prescribing duties of nursing homes with respect to influenza and pneumococcal polysaccharide vaccinations; providing rulemaking authority; establishing the Office of Community Partners within the Department of Health to provide for delivery of social services through eligible private organizations and programs; providing procedure for transfer of general revenue funds to match federal funds received by the office; creating s. 627.6474, F.S.; prohibiting health insurers from requiring certain contracted health care practitioners to accept the terms of other health care contracts as a condition of continuation or renewal; providing exceptions; amending s. 627.662, F.S.; applying this prohibition to group health insurance, blanket health insurance, and franchise health insurance; amending s. 641.315, F.S.; applying this prohibition to health maintenance organizations; providing effective dates.

Rep. Farkas moved the adoption of the amendment.

Representative(s) Littlefield offered the following:

(Amendment Bar Code: 264967)

Amendment 1 to Amendment 3 (with title amendment)—On page 1, between lines 16 & 17, of the amendment

insert:

Section 1. (1) Subsection (3) is added to section 766.301, Florida Statutes, to read:

766.301 Legislative findings and intent.—

(3) In order to maintain the actuarial soundness of the compensation scheme for birth-related neurological injuries as established in ss. 766.301-766.316, the Legislature hereby clarifies its original intent with respect to the distinction between the payment of actual expenses for medical necessities, which is authorized in s. 766.31(1)(a), and the award of up to $125,000 for the parents or legal guardians of neurologically injured infants, which is authorized in s. 766.31(1)(b). It has always been the intent of the Legislature that the term "actual expenses," as used in s. 766.31(1)(a), means only out-of-pocket, monetary expenditures for the professionally rendered care of a neurologically injured infant, as opposed to payments for the time spent by a parent or other family member in providing care to an eligible infant, and that s. 766.31(1)(b) has been and remains the exclusive source of funds for parents or legal guardians irrespective of the time, activities, and services they devote to the care and welfare of an eligible neurologically injured infant.

(2)(a) The addition of subsection (3) to section 766.301, Florida Statutes, by this section shall take effect upon this act becoming a law and shall apply to all claims under the Florida Birth-Related Neurological Injury Compensation Plan which date from the effective date of chapter 88-1, Laws of Florida.

(b) The purpose of the addition of subsection (3) to section 766.301, Florida Statutes, by this section is to clarify legislative intent with respect to the term "actual expenses" as used in paragraph (a) of subsection (1) of section 766.31, Florida Statutes, and the term "award" as used in paragraph (b) of subsection (1) of section 766.31, Florida Statutes.

Section 2. (1) Paragraphs (a) and (b) of subsection (1) of section 766.31, Florida Statutes, are amended to read:

766.31 Administrative law judge awards for birth-related neurological injuries; notice of award.—

(1) Upon determining that an infant has sustained a birth-related neurological injury and that obstetrical services were delivered by a participating physician at the birth, the administrative law judge shall make an award providing compensation for the following items relative to such injury:

(a) Actual expenses for medically necessary and reasonable medical and hospital *costs for*~~,~~ habilitative and training, *nonfamilial* residential, and custodial care and service, for medically necessary drugs, special equipment, and facilities, and for related travel. However, such expenses shall not include:

1. Expenses for items or services that the infant has received, or is entitled to receive, under the laws of any state or the Federal Government, except to the extent such exclusion may be prohibited by federal law.

2. Expenses for items or services that the infant has received, or is contractually entitled to receive, from any prepaid health plan, health maintenance organization, or other private insuring entity.

3. Expenses for which the infant has received reimbursement, or for which the infant is entitled to receive reimbursement, under the laws of any state or the Federal Government, except to the extent such exclusion may be prohibited by federal law.

4. Expenses for which the infant has received reimbursement, or for which the infant is contractually entitled to receive reimbursement, pursuant to the provisions of any health or sickness insurance policy or other private insurance program.

5. Compensation for the time, services, or activities performed by the parents or legal guardians of the infant.

Expenses included under this paragraph shall be limited to reasonable charges prevailing in the same community for similar treatment of injured persons when such treatment is paid for by the injured person.

(b) Periodic payments of an award to the parents or legal guardians of the infant found to have sustained a birth-related neurological injury, which award shall not exceed *$125,000* ~~$100,000~~. However, at the discretion of the administrative law judge, such award may be made in a lump sum. *An award made under this paragraph shall be the exclusive source of funds from the plan to the parents or legal guardians of an eligible neurologically injured infant, and compensation shall not be provided under any other provision of the plan for the time, services, or activities performed by the parents or legal guardians of the infant.*

(2)(a) The amendment of paragraphs (a) and (b) of subsection (1) of section 766.31, Florida Statutes, by this section shall take effect upon this act becoming a law and shall apply to all claims under the Florida Birth-Related Neurological Injury Compensation Plan which date from the effective date of chapter 88-1, Laws of Florida.

(b) The purpose of the amendment of paragraphs (a) and (b) of subsection (1) of section 766.31, Florida Statutes, by this section is to clarify legislative intent with respect to the term "actual expenses" as used in paragraph (a) of subsection (1) of section 766.31, Florida Statutes, and the term "award" as used in paragraph (a) of subsection (1) of section 766.31, Florida Statutes.

Section 3. (1) Subsection (2) of section 766.302, Florida Statutes, is amended to read:

766.302 Definitions; ss. 766.301-766.316.—As used in ss. 766.301-766.316, the term:

(2) "Birth-related neurological injury" means injury to the brain or spinal cord of a live infant weighing at least 2,500 grams *at birth, in the case of a single gestation, or a live infant weighing at least 2,000 grams* at birth*, in the case of a multiple gestation,* caused by oxygen deprivation or mechanical injury occurring in the course of labor, delivery, or resuscitation in the immediate postdelivery period in a hospital, which renders the infant permanently and substantially mentally and physically impaired. This definition shall apply to live births only and shall not include disability or death caused by genetic or congenital abnormality.

(2) The amendment of subsection (2) of section 766.302, Florida Statutes, by this section shall take effect July 1, 2001, and shall apply to all births occurring on or after that date.

Section 4. (1) Paragraph (b) of subsection (1) of section 766.31, Florida Statutes, as amended by this act, is amended to read:

766.31 Administrative law judge awards for birth-related neurological injuries; notice of award.—

(1) Upon determining that an infant has sustained a birth-related neurological injury and that obstetrical services were delivered by a participating physician at the birth, the administrative law judge shall make an award providing compensation for the following items relative to such injury:

(b)*1.* Periodic payments of an award to the parents or legal guardians of the infant found to have sustained a birth-related neurological injury, which award shall not exceed $125,000. However, at the discretion of the administrative law judge, such award may be made in a lump sum. An award made under this paragraph shall be the exclusive source of funds from the plan to the parents or legal guardians of an eligible neurologically injured infant, and compensation shall not be provided under any other provision of the plan for the time, services, or activities performed by the parents or legal guardians of the infant.

2. Payment for funeral expenses not to exceed $1,500.

(2) The amendment of paragraph (b) of subsection (1) of section 766.31, Florida Statutes, by this section shall take effect July 1, 2001, and shall apply to all births occurring on or after that date.

And the title is amended as follows:

On page 300, line 17, of the amendment after the semicolon
remove: all of said line

and insert in lieu thereof: amending s. 766.301, F.S.; providing additional and clarifying legislative intent with respect to expenses and awards for birth-related neurologically injured infants; providing applicability and purpose; amending s. 766.31, F.S.; revising requirements as to what constitutes actual expenses for which compensation for birth-related neurological injury may be awarded; increasing the cap on periodic payments; authorizing certain compensation for funeral expenses; providing applicability and purpose; amending s. 766.302, F.S.; revising the definition of "birth-related neurological injury"; providing applicability;

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

Representative(s) Farkas offered the following:

(Amendment Bar Code: 803395)

Amendment 2 to Amendment 3—On page 156, line 15,
remove from the amendment: all of said line

and insert in lieu thereof:

Section 53. Effective October 1, 2001, paragraphs (e) and (f) of subsection (4)

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

Representative(s) Farkas offered the following:

(Amendment Bar Code: 511347)

Amendment 3 to Amendment 3—On page 159, line 28,
remove from the amendment: all of said line

and insert in lieu thereof:

Section 54. Effective October 1, 2001, subsection (4) and paragraph (c) of

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

Representative(s) Farkas offered the following:

(Amendment Bar Code: 560389)

Amendment 4 to Amendment 3 (with title amendment)—On page 208, line 7, through page 209, line 17,
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 74. Subsection (2) of section 458.315, Florida Statutes, is amended to read:

458.315 Temporary certificate for practice in areas of critical need.—Any physician who is licensed to practice in any other state, whose license is currently valid, and who pays an application fee of $300 may be issued a temporary certificate to practice in communities of Florida where there is a critical need for physicians. A certificate may be issued to a physician who will be employed by a county health department, correctional facility, community health center funded by s. 329, s. 330, or s. 340 of the United States Public Health Services Act, or other entity that provides health care to indigents and that is approved by the State Health Officer. The Board of Medicine may issue this temporary certificate with the following restrictions:

(2) The board may administer an abbreviated oral examination to determine the physician's competency, but no written regular examination is necessary. *Within 60 days after receipt of an application for a temporary certificate, the board shall review the application and issue the temporary certificate or notify the applicant of denial.*

(Renumber subsequent sections)

And the title is amended as follows:

On page 304, lines 14 through 19, of the amendment
remove: all of said lines

and insert in lieu thereof: 458.315, F.S.; providing requirements for the

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

Representative(s) Green offered the following:

(Amendment Bar Code: 930263)

Amendment 5 to Amendment 3—On page 254, line 28, through page 255, line 20,
remove from the amendment: all of said lines

and insert in lieu thereof:

(d) A person holding a certificate as a general radiographer may not perform nuclear medicine and radiation therapy procedures*, except as provided herein. A person who is a general radiographer certified pursuant to this part who receives additional training and skills in radiation therapy technology procedures as referenced herein may assist with managing patients undergoing radiation therapy treatments if that assistance is provided to a person registered with the American Registry of Radiologic Technologists in radiation therapy who is also certified pursuant to this part as a radiation therapy technologist. Both the general radiographer and the radiation therapy technologist must perform these radiation therapy services under the general supervision of a physician licensed under chapter 458 or chapter 459 who is trained and skilled in performing radiation therapy treatments. The radiation therapy technologist identified in this paragraph may not delegate any function to the general radiographer that could reasonably be expected to create an unnecessary danger to a patient's life, health or safety. The general radiographer identified under this paragraph may not, however, perform the following services while assisting the radiation therapy technologist: radiation treatment planning, calculation of radiation therapy doses, administration of radiation therapy doses, or any of the duties of a medical physicist. The general radiographer identified under this paragraph must successfully complete a training program in the following areas before assisting with radiation therapy technology duties:*

1. Principles of radiation therapy treatment;

2. Biological effects of radiation;

3. Radiation exposure and monitoring;

4. Radiation safety and protection;

5. Evaluation and handling of radiographic treatment equipment and accessories;

6. Patient positioning for radiation therapy treatment. In addition, a ~~A~~ general radiographer may participate in additional approved programs as provided by rule of the department.

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

Representative(s) Farkas offered the following:

(Amendment Bar Code: 830007)

Amendment 6 to Amendment 3—On page 298, line 10,
remove from the amendment: 142-144

and insert in lieu thereof: 146-148

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

The question recurred on the adoption of **Amendment 3**, as amended, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 1867. The vote was:

Session Vote Sequence: 366

Yeas—119

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

Continuation of Special Orders

Continuation of Special Order Calendar

CS/HB 1255—A bill to be entitled An act relating to the Florida Building Code; amending s. 373.323, F.S.; authorizing water well contractors to install, repair, or modify specified equipment in accordance with the code; amending s. 489.509, F.S.; transferring specified licensing fees from the Department of Education to the Department of Community Affairs; amending ss. 553.36 and 553.415, F.S.; defining the term "factory-built school shelter"; providing for the Department of Community Affairs to approve plans for such shelters; authorizing districts to charge inspection fees; authorizing approved inspection entities to conduct inspections of factory-built school buildings while they are under construction; delaying the deadline for inspecting factory-built buildings currently in use; amending ss. 553.505 and 553.507, F.S.; conforming cross references; amending s. 553.73, F.S.; providing for the uniform implementation of parts of the residential swimming pool safety act; defining the term "specific needs" for purposes of selection from available codes; providing a process for the approval of technical amendments to the code; providing for the treatment of permit applications submitted prior to the effective date of the code; exempting specified buildings from certain standards of the code; amending s. 553.77, F.S.; requiring the commission to issue specified declaratory statements; providing for hearings; providing for rules for plan review of prototype buildings; authorizing the commission to produce a commentary to accompany the Florida Building Code; amending s. 553.79, F.S.; requiring the code to establish standards for preliminary construction; creating s. 553.8412, F.S.; providing for statewide outreach for training in the code; amending s. 553.842, F.S.; providing methods for local and statewide approval of products and methods or systems of construction; providing rulemaking authority; amending s. 553.895, F.S.; exempting specified spaces within telecommunications buildings under specified circumstances; allowing the use of a manual wet standpipe under certain circumstances; directing the commission to research certain issues and provide reports to the Legislature; providing an effective date for the Florida Building Code; amending chs. 98-287, Laws of Florida, as amended by ch. 2000-141, Laws of Florida, 98-419, Laws of Florida, as amended by ch. 2000-141, Laws of Florida, and 2000-141, Laws of Florida; revising effective dates of certain provisions; requiring the Florida Building Commission to appoint members to the commission's Education Technical Advisory Committee; specifying duties of the advisory committee; providing for the carryforward of funds collected for research projects; requiring the Florida Building Commission to convene an ad hoc subcommittee to make recommendations regarding alternative plans review and inspection procedures; requiring a report; amending ss. 316.515 and 627.702, F.S.; revising cross references; repealing s. 553.77(2), F.S., relating to commission prescription of certain renewal fees; providing effective dates.

—was taken up, having been read the second time, and amended, earlier today; now pending on motion by Rep. Diaz-Balart to adopt Amendment 2 to Amendment 1.

The question recurred on the adoption of **Amendment 2 to Amendment 1**, which was adopted.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 520287)

Amendment 3 to Amendment 1 (with title amendment)—On page 4, line 19, through page 5, line 24,
remove from the amendment: all of said lines,

and insert in lieu thereof:

Section 4. Section 399.001, Florida Statutes, is created to read:

399.001 Short title and purpose.—This chapter may be cited as the "Elevator Safety Act." The purpose of this chapter is to provide for the safety of life and limb and to promote public safety awareness. The use of unsafe and defective lifting devices imposes a substantial probability of serious and preventable injury and exposes employees and the public to unsafe conditions. The prevention of these injuries and the protection

of employees and the public from unsafe conditions is in the best interest of the public. Elevator personnel performing work covered by the Florida Building Code must possess documented training or experience or both and be familiar with the operation and safety functions of the components and equipment. Training and experience includes, but is not limited to, recognizing the safety hazards and performing the procedures to which they are assigned in conformance with the requirements of the Florida Building Code. This chapter establishes the minimum standards for elevator personnel.

Section 5. Section 399.01, Florida Statutes, is amended to read:

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

(1) "Alteration" means any change or addition to the *vertical conveyance* ~~equipment~~ other than maintenance, repair, or replacement.

(2) "Certificate of competency" means a document issued by the division which evidences the competency of a person to construct, install, inspect, maintain, or repair any *vertical conveyance* ~~elevator~~.

(3) "Certificate of operation" means a document *issued by the department which indicates that the conveyance has had the required safety inspection and tests and that fees have been paid as provided in this chapter.*

(4) "Conveyance" means an elevator, dumbwaiter, escalator, moving sidewalk, platform lift, and stairway chairlift.

(5) "Department" means the Department of Business and Professional Regulation. ~~that authorizes an elevator owner to operate the elevator and that is issued to the elevator owner when the division finds that the elevator complies with the requirements of this chapter.~~

(6) ~~(4)~~ "Division" means the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

(7) ~~(5)~~ "Elevator" means one of the following mechanical devices:

(a) A hoisting and lowering mechanism, equipped with a car and platform that moves in guide rails and serves two or more landings to transport material or passengers or both.

(b) An escalator, which is a power-driven, inclined continuous stairway used for raising or lowering passengers.

(c) A dumbwaiter, which is a hoisting and lowering mechanism equipped with a car of limited size which moves in guide rails and serves two or more landings.

(d) A moving walk, which is a type of passenger-carrying device on which passengers stand or walk and in which the passenger-carrying surface remains parallel to its direction of motion and is uninterrupted.

(e) An inclined stairway chairlift, which is a device used to transport physically handicapped persons over architectural barriers.

(f) An inclined or vertical wheelchair lift, which is a device used to transport wheelchair handicapped persons over architectural barriers.

(8) "Escalator" means an installation defined as an escalator in the Florida Building Code.

(9) "Existing installation" means an installation defined as an "installation, existing" in the Florida Building Code.

(10) "Elevator Safety Technical Advisory Committee" means the committee appointed by the secretary of the Department of Business and Professional Regulation.

(11) "Private residence" means a separate dwelling or a separate apartment in a multiple dwelling which is occupied by members of a single-family unit.

~~(6) "Elevator company" means any person that constructs, installs, inspects, maintains, or repairs any elevator.~~

(12)~~(7)~~ "Service maintenance contract" means a contract that provides for routine examination, lubrication, cleaning, adjustment, replacement of parts, and performance of applicable code-required safety tests *such as* on a traction elevator and annual relief pressure test on a hydraulic elevator and any other service, repair, and maintenance sufficient to ensure the safe operation of the elevator.

(13) "Temporarily dormant conveyance" means a conveyance whose power supply has been disconnected by removing fuses and placing a padlock on the mainline disconnect switch in the "OFF" position. The car is parked and the hoistway doors are in the closed and latched position. A wire seal is installed on the mainline disconnect switch by a certificate of competency elevator inspector. This installation may not be used again until it has been put in safe running order and is in condition for use. Annual inspections shall continue for the duration of the temporarily dormant status by a certificate of competency elevator inspector. The temporarily dormant status is renewable on an annual basis and may not exceed a 5-year period. The inspector shall file a report with the chief elevator inspector describing the current conditions. The wire seal and padlock may not be removed for any purpose without permission from the elevator inspector.

(14) "Temporary operation permit" means a document issued by the department which permits the temporary use of a noncompliant vertical conveyance as provided by rule.

(15) "Registered elevator company" means an entity registered with and authorized by the division employing persons to construct, install, inspect, maintain, or repair any vertical conveyance. Each registered elevator company must annually register with the division and maintain general liability insurance coverage in the minimum amounts set by the division.

(16) "Certified elevator inspector" is a natural person registered with and authorized by the division to construct, install, inspect, maintain, or repair any vertical conveyance, after having properly acquired the qualified elevator inspector credential from the National Association of Elevator Safety Authorities. Such person shall remain so authorized by the division only upon providing annual proof of completion of 8 hours of continuing education and the qualified elevator inspector credential remains in good standing with the National Association of Elevator Safety Authorities. A licensed mechanical engineer whose license is in good standing may be authorized as a certified elevator inspector by the division. Each certified elevator inspector must annually register with the division and maintain general liability insurance coverage in the minimum amounts set by the division.

(17) "Certified elevator technician" means a natural person authorized by the division to construct, install, maintain, or repair any vertical conveyance, after having been issued an elevator certificate of competency by the division. Each certified elevator technician must annually register with the division and maintain general liability insurance coverage in the minimum amounts set by the division.

(18) "Elevator helper" means a natural person performing work under the direct supervision of a certified elevator inspector or an elevator technician to construct, install, maintain, or repair any vertical conveyance.

(19) "Elevator certificate of competency" means a credential issued by the division to any individual natural person successfully completing an examination as prescribed by rule and paying a fee of $50. Such credential shall be valid for and expire at the end of 1 year, and may be renewed by the division when the division receives proof of the elevator certificate of competency holder's completion of 8 hours of continuing education and a renewal fee of $50.

All other building transportation terms are defined in the current Florida Building Code.

Section 6. Section 399.02, Florida Statutes, is amended to read:

399.02 General requirements.—

(1) The *Elevator Safety Technical Advisory Committee* ~~division~~ shall develop and submit to the *Director of Hotels and Restaurants regarding revisions to the elevator safety code so that it is the same as or similar to the latest versions of ASME A17.1, ASME A17.3, and ASME A18.1.*

~~Florida Building Commission for consideration an elevator safety code, which, when adopted within the Florida Building Code, applies to the installation, relocation, or alteration of an elevator for which a permit has been issued after October 1, 1990, and which must be the same as or similar to the latest revision of "The Safety Code for Elevators and Escalators ASME A17.1."~~

(2) This chapter covers the design, construction, operation, inspection, testing, maintenance, alteration, and repair of the following equipment and its associated parts and hoistways:

(a) Hoisting and lowering mechanisms equipped with a car or platform which move between two or more landings. This equipment includes, but is not limited to, elevators, platform lifts, and stairway chairlifts.

(b) Power-driven stairways and walkways for carrying persons between landings. This equipment includes, but is not limited to, escalators and moving walks.

(c) Hoisting and lowering mechanisms equipped with a car which serves two or more landings and is restricted to the carrying of material by its limited size or limited access to the car. This equipment includes, but is not limited to, dumbwaiters, material lifts, and dumbwaiters with automatic-transfer devices.

(3) Equipment not covered by this chapter includes, but is not limited to:

(a) Personnel hoists and material hoists within the scope of ASME A10, as adopted by the Florida Building Code.

(b) Man lifts within the scope of ASME A90.1, as adopted by the Florida Building Code.

(c) Mobile scaffolds, towers, and platforms within the scope of ANSI A92, as adopted by the Florida Building Code.

(d) Powered platforms and equipment for exterior and interior maintenance within the scope of ASME A120.1, as adopted by the Florida Building Code.

(e) Conveyors and related equipment within the scope of ASME B20.1, as adopted by the Florida Building Code.

(f) Cranes, derricks, hoists, hooks, jacks, and slings within the scope of ASME B30, as adopted by the Florida Building Code.

(g) Industrial trucks within the scope of ASME B56, as adopted by the Florida Building Code.

(h) Portable equipment, except for portable escalators that are covered by the Florida Building Code.

(i) Tiered or piling machines used to move materials to and from storage located and operating entirely within one story.

(j) Equipment for feeding or positioning materials at machine tools and printing presses.

(k) Skip or furnace hoists.

(l) Wharf ramps.

(m) Railroad car lifts or dumpers.

(n) Line jacks, false cars, shafters, moving platforms, and similar equipment used for installing an elevator by a contractor licensed in this state.

(o) Automated people movers at airports.

(p) Elevators in television and radio towers.

(q) Hand-operated dumbwaiters.

(r) Sewage pump station lifts.

(s) Automobile parking lifts.

(t) Equipment covered in s. 1.2 of the Elevator Safety Code.

(u) Elevators, inclined stairway chairlifts, and inclined or vertical wheelchair lifts located in private residences.

~~(2)(a) The requirements of this chapter apply to equipment covered by s. 1.1 of the Elevator Safety Code.~~

~~(b) The equipment not covered by this chapter includes, but is not limited to, the following: elevators, inclined stairway chairlifts, and inclined or vertical wheelchair lifts located in private residences; elevators in television and radio towers; hand-operated dumbwaiters; sewage pump station lifts; automobile parking lifts; and equipment covered in s. 1.2 of the Elevator Safety Code.~~

(4)~~(3)~~ Each elevator shall have a serial number assigned by the *department* ~~division~~ painted on or attached to the elevator car in plain view and also to the driving mechanism. This serial number shall be shown on all required certificates and permits.

(5)~~(4)~~(a) The construction permitholder is responsible for the correction of violations and deficiencies until the elevator has been inspected and a certificate of operation has been issued by the *department* ~~division~~. The construction permitholder is responsible for all tests of new and altered equipment until the elevator has been inspected and a certificate of operation has been issued by the *department* ~~division~~.

(b) The elevator owner is responsible for the safe operation and proper maintenance of the elevator after it has been inspected and a certificate of operation has been issued by the *department* ~~division~~. The responsibilities of the elevator owner may be assigned by lease.

(c) The elevator owner shall report to the *department* ~~division~~ 60 days before the expiration of the certificate of operation whether there exists a service maintenance contract, with whom the contract exists, and the details concerning the provisions and implementation of the contract which the *department* ~~division~~ requires. The *department* ~~division~~ shall keep the names of companies with whom the contract exists confidential pursuant to the public records exemption provided in s. 119.14(4)(b)3. This annual contract report must be made on forms supplied by the *department* ~~division~~. The elevator owner must report any material change in the service maintenance contract no fewer than 30 days before the effective date of the change. The *department* ~~division~~ shall determine whether the provisions of the service maintenance contract and its implementation ensure the safe operation of the elevator.

~~(d) Each elevator company must register and have on file with the division a certificate of comprehensive general liability insurance evidencing coverage limits in the minimum amounts of $100,000 per person and $300,000 per occurrence and the name of at least one employee who holds a current certificate of competency issued under s. 399.045.~~

(6)~~(5)~~ The *department* ~~division~~ is empowered to carry out all of the provisions of this chapter relating to the inspection and regulation of elevators and to enforce the provisions of the Florida Building Code ~~which govern elevators and conveying systems in conducting the inspections authorized under this part to provide for the protection of the public health, welfare, and safety~~.

(7)~~(6)~~ The *Elevator Safety Technical Advisory Committee* ~~division~~ shall annually review the provisions of the Safety Code for Elevators and Escalators ASME A17.1, *ASME A18.1,* or other related model codes and amendments thereto, *concurrent with the update of the Florida Building Code* and recommend to the Florida Building Commission revisions to the Florida Building Code to maintain the protection of the public health, safety, and welfare.

Section 7. Section 399.03, Florida Statutes, is amended to read:

399.03 Design, installation, and alteration of *conveyances* ~~elevators~~.—

(1) A conveyance covered by this chapter may not be erected, constructed, installed, or altered within buildings or structures unless a

permit has been obtained from the department before the work is commenced. When any material alteration is made, the device must conform to applicable requirements of the Florida Building Code for the alteration. A permit required hereunder may not be issued except to a person, firm, or corporation holding a current elevator contractor's license issued under this chapter. A copy of the permit must be kept at the construction site at all times while the work is in progress.

(2) The department shall provide by rule for permit application requirements and permit fees.

(3) Permits may be revoked for the following reasons:

(a) There are any false statements or misrepresentations as to the material facts in the application, plans, or specifications on which the permit was based.

(b) The permit was issued in error and not in accordance with the code or rules.

(c) The work detailed under the permit is not being performed in accordance with the provisions of the application, plans, or specifications or with the code or conditions of the permit.

(d) The construction permitholder to whom the permit was issued fails or refuses to comply with a stop work order.

(4) A permit expires if:

(a) The work authorized by the permit is not commenced within 6 months after the date of issuance, or within a shorter period of time as the department may specify at the time the permit is issued.

(b) The work is suspended or abandoned for a period of 60 days, or such shorter period of time as the department may specify at the time the permit is issued, after the work has been started. For good cause, the department may allow a discretionary extension for the foregoing period.

(5) All new conveyance installations must be performed by a person to whom a license to install or service a conveyance has been issued. Subsequent to installation, the licensed person, firm, or company must certify compliance with the applicable sections of this chapter and the Florida Building Code. Before any vertical conveyance is used, except those in a private residence it must be inspected by a licensed inspector not employed or associated with the elevator construction permitholder and certified as meeting the safety provisions of the Florida Building Code. Upon successful inspection, the owner or lessee must apply to the department for a certificate of operation from the department. A fee as prescribed in this chapter must be paid for the certificate of operation. It is the responsibility of the licensed elevator construction permitholder to complete and submit a first-time registration for a new installation. Vertical conveyances, including stairway chairlifts, and inclined or vertical wheelchair lifts located in private residences are not required to obtain a certificate of operation under this chapter.

(6) A certificate of operation expires July 31 of each year and must be renewed prior to continued use of the conveyance. A certificate of operation must be clearly displayed on or in each conveyance or in the machine room for use by and for the benefit of inspectors and code enforcement personnel. Certificates of operation may only be renewed for vertical conveyances having a current satisfactory inspection.

(7) The permitholder shall notify the department, in writing, at least 7 days before completion of the work and shall, in the presence of a licensed elevator inspector not associated with or employed by the installing company or contractor, subject the newly installed, relocated, or altered portions of the elevator to tests required to show that the elevator meets the applicable provisions of the Florida Building Code.

(8) ~~(1)~~ Each elevator shall comply with the edition of the Florida Building Code *or Elevator Safety Code* that was in effect at the time of receipt of application for the construction permit for the elevator.

(9) ~~(2)~~ Each alteration to, or relocation of, an elevator shall comply with the edition of the Florida Building Code *or Elevator Safety Code* that was in effect at the time of receipt of the application for the construction permit for the alteration or relocation.

(10) ~~(3)~~ When any change is made in the classification of an elevator, the elevator shall comply with all of the requirements of the version of the Florida Building Code *or Elevator Safety Code* that were in effect at the time of receipt of the application for the construction permit for the change in classification.

Section 8. Section 399.049, Florida Statutes, is created to read:

399.049 Certificate of competency.—

(1) SUSPENSION OR REVOCATION OF LICENSE OR CERTIFICATE OF COMPETENCY.—The department may suspend or revoke a license or certificate of competency issued under this chapter or impose an administrative penalty of up to $1,000 per violation upon any licensee or certificateholder who commits any one or more of the following violations:

(a) Any false statement as to a material matter in the application.

(b) Fraud, misrepresentation, or bribery in securing a license or certificate of competency.

(c) Failure to notify the department and the certificate-of-operation holder of a conveyance covered by this chapter that is not in compliance with the provisions of the elevator safety code incorporated into the Florida Building Code.

(d) Violation of any provision of this chapter.

(2) DISCIPLINARY ACTION.—Any disciplinary action taken under this chapter must comply with chapter 120 and any rules adopted thereunder.

Section 9. Section 399.061, Florida Statutes, is amended to read:

399.061 Inspections; correction of deficiencies.—

(1)(a) All elevators *or other conveyances* subject to this chapter must be *annually* inspected *by a certified elevator inspector through a third-party inspection service, or by a municipality or county under contract with the division,* pursuant to s. 399.13*. If the elevator or other conveyance is* ~~by a third-party inspection service certified as a qualified elevator inspector or~~ maintained pursuant to a service maintenance contract continuously in force*, it shall be inspected at least once every 2 years by a certified elevator inspector who is not employed by or otherwise associated with the maintenance company; however, if the elevator is not an escalator or a dumbwaiter, serves only two adjacent floors, and is covered by a service maintenance contract, an inspection is not required so long as the service contract remains in effect*. A statement verifying the existence, performance, and cancellation of each service maintenance contract must be filed annually with the division as prescribed by rule. ~~All elevators covered by a service maintenance contract shall be inspected by a certificate-of-competency holder at least once every 2 years; however, if the elevator is not an escalator or a dumbwaiter and the elevator serves only two adjacent floors and is covered by a service maintenance contract, no inspection shall be required so long as the service contract remains in effect.~~

(b) The division may inspect an elevator whenever necessary to ensure its safe operation *or when a third-party inspection service is not available for a routine inspection*.

(2) The division *may* ~~shall~~ employ state elevator inspectors to conduct the inspections *as* required by subsection (1) *and may charge an inspection fee for each inspection in an amount sufficient to cover the costs of that inspection, as provided by rule*. Each state elevator inspector shall hold a certificate of competency issued by the division.

(3) Whenever the division determines from the results of any inspection that, in the interest of the public safety, an elevator is in an unsafe condition, the division may seal the elevator or order the discontinuance of the use of the elevator until the division determines by inspection that such elevator has been satisfactorily repaired or replaced so that the elevator may be operated in a safe manner.

(4) When the division determines that an elevator is in violation of this chapter, the division may issue an order to the elevator owner requiring correction of the violation.

Section 10. Section 399.07, Florida Statutes, is amended to read:

399.07 Certificates of operation; temporary operation permits; fees.—

(1)(a) A certificate of operation may not be issued until the elevator company supervisor signs an affidavit stating that the elevator company supervisor directly supervised construction or installation of the elevator.

(b) The certificate of operation is valid for a period of 1 year unless sooner suspended or revoked. The *department* ~~division~~ shall by rule adopt a fee schedule for the renewal of certificates of operation. The renewal period commences on August 1 of each year.

(c) The certificate of operation must be posted in a conspicuous location on the elevator and must be framed with a transparent cover.

(d) The *department* ~~division~~ shall charge an annual fee for issuance of a certificate of operation *in amount to be set by rule*. ~~The fee must be set by rule in an amount not to exceed $100 for an elevator not covered by a service maintenance contract or $50 for an elevator covered by a service maintenance contract~~. However, a renewal application for a certificate of operation filed with the department after expiration date of the certificate must be accompanied by a delinquency fee of $50 in addition to the annual renewal fee and any other fees required by law. The fees must be deposited into the Hotel and Restaurant Trust Fund.

(2)(a) The *department* ~~division~~ may issue a temporary operation permit authorizing the temporary use of an elevator during installation or alteration to an elevator company or general contractor acting as a general agent of an elevator company. A temporary operation permit may not be issued until the elevator has been inspected by a state elevator inspector and tested under contract load; the hoistway is fully enclosed; the hoistway doors and interlocks are installed; the car is completely enclosed, including door or gate and top; all electrical safety devices are installed and properly functioning; and terminal stopping equipment is in place for a safe runby and proper clearance. When a car is provided with a temporary enclosure, the operating means must be by constant pressure push-button or lever-type switch. The car may not exceed the minimum safe operating speed of the elevator, and the governor tripping speed must be set in accordance with the operating speed of the elevator.

(b) A temporary operation permit must be issued for a period not to exceed 30 days. The permit may be renewed at the discretion of the *department* ~~division~~.

(c) When a temporary operation permit is issued, the permit, together with a notice bearing a statement that the elevator has not been finally approved by a state elevator inspector, must be conspicuously posted in the elevator.

(d) The *department* ~~division~~ shall charge a fee, set by rule in an amount not greater than $100, for each temporary operation permit. The fee must be deposited in the Hotel and Restaurant Trust Fund.

(3) The certificate of operation shall contain the text of s. 823.12, relating to the prohibition against smoking in elevators.

(4) In addition to subsection (3), the designation "NO SMOKING" along with the international symbol for no smoking shall be conspicuously displayed within the interior of the elevator in the plain view of the public.

(5) Except as authorized by a temporary operation permit, the operation or use of any newly installed, relocated, or altered elevator is prohibited until the elevator has passed the tests and inspections required by this chapter and a certificate of operation has been issued.

(6) The *department* ~~division~~ may suspend any certificate of operation if it finds that the elevator is not in compliance with this chapter or of rules adopted under this chapter. The suspension remains in effect until the *department* ~~division~~ determines, by inspection, that the elevator has been brought into compliance.

Section 11. Section 399.10, Florida Statutes, is amended to read:

399.10 Enforcement of law.—It shall be the duty of the *department* ~~division~~ to enforce the provisions of this chapter. The *department* ~~division~~ shall have rulemaking authority to carry out the provisions of this chapter.

Section 12. Section 399.105, Florida Statutes, is amended to read:

399.105 Administrative fines.—

(1) Any person who fails to comply with the reporting requirements of s. 399.02 or with the reasonable requests of the *department* ~~division~~ to determine whether the provisions of a service maintenance contract and its implementation assure safe elevator operation is subject to an administrative fine not greater than *$1,000* ~~$500~~ in addition to any other penalty provided by law.

(2) Any person who commences the operation, installation, relocation, or alteration of any elevator for which a permit or certificate is required by this chapter without having obtained from the *department* ~~division~~ the permit or certificate is subject to an administrative fine not greater than *$1,000* ~~$500~~ in addition to any other penalty provided by law. No fine may be imposed under this subsection for commencing installation without a construction permit if such permit is issued within 60 days after the actual commencement of installation.

(3) An elevator owner who continues to operate an elevator after notice to discontinue its use is subject to an administrative fine not greater than *$1,000* ~~$500~~ for each day the elevator has been operated after the service of the notice, in addition to any other penalty provided by law.

(4) An elevator owner who fails to comply with an order issued under s. 399.061(4) within 60 days after its issuance is subject, in addition to any other penalty provided by law, to an administrative fine set by the *department* ~~division~~ in an amount not to exceed *$1,000* ~~$500~~.

(5) All administrative fines collected shall be deposited into the Hotel and Restaurant Trust Fund.

Section 13. Section 399.106, Florida Statutes, is created to read:

399.106 Elevator Safety Technical Advisory Committee.—

(1) The Elevator Safety Technical Advisory Committee is created within the Department of Professional Regulation, Division of Hotel and Restaurants, consisting of seven members to be appointed by the Secretary of the Department of Business and Professional Regulation as follows: one representative from a major elevator manufacturing company or its authorized representative; one representative from an elevator servicing company; one representative from a building design profession; one representative of the general public; one representative of a local government in this state; one representative of a building owner or manager; one representative of labor involved in the installation, maintenance, and repair of elevators. The purpose of the Committee is to provide technical assistance to the division in support of protecting the health, safety, and welfare of the public; to give the division the benefit of the committee members' knowledge and experience concerning the industries and individual businesses affected by the laws and rules administered by the division.

(2) The committee members shall serve staggered terms of 4 years to be set by rule without salary, but may receive from the state expenses for per diem and travel. The commission shall appoint one of the members to serve as chair.

(3) The committee shall meet and organize not later than 45 days prior to the convening of the 2002 Legislature. This committee terminatesDecember 31, 2003.

(4) The committee may consult with engineering authorities and organizations concerned with standard safety codes for recommendations to the department regarding rules and regulations governing the operation, maintenance, servicing, construction, alteration, installation, or inspection of vertical conveyances subject to this chapter.

Section 14. Section 399.11, Florida Statutes, is amended to read:

399.11 Penalties.—

(1) Any person who violates any of the provisions of this chapter or the rules of the *department* ~~division~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who falsely represents himself or herself as *credentialed under this chapter* ~~a holder of a certificate of competency issued pursuant to s. 399.045~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 15. Section 399.125, Florida Statutes, is amended to read:

399.125 Reporting of elevator accidents *or incidents*; penalties.—Within 5 working days after any accident *or incident* occurring in or upon any elevator, *the certificate of operation holder shall report the accident or incident to the division on a forum prescribed by the division. Failure to timely file this report is a violation of this chapter and will subject the certificate of operation holder* ~~which accident results in bodily injury or death to any person and which is presumptively caused by the malfunction of the equipment or misuse by a passenger of the equipment, the elevator owner shall report to the division the date and time of the accident, the location of the elevator involved in the accident, whether there exists a service maintenance contract, and, if so, with whom. Any elevator owner who fails to file such report within 5 working days after an accident is subject~~ to an administrative fine, to be imposed by the division, in an amount not to exceed *$1,000* ~~$500~~.

Section 16. Section 399.13, Florida Statutes, is amended to read:

399.13 Delegation of authority to municipalities or counties.—

(1) The *department* ~~division~~ may enter into contracts with municipalities or counties under which such municipalities or counties will issue construction permits, temporary operation permits, and certificates of operation; will provide inspection of elevators; and will enforce the applicable provisions of the Florida Building Code, as required by this chapter. Each such agreement shall include a provision that the municipality or county shall maintain for inspection by the *department* ~~division~~ copies of all applications for permits issued, a copy of each inspection report issued, and proper records showing the number of certificates of operation issued; shall include a provision that each required inspection be conducted by the holder of a certificate of competency issued by the *department* ~~division~~; and may include such other provisions as the *department* ~~division~~ deems necessary.

(2) The *department* ~~division~~ may make inspections of elevators in such municipality or county for the purpose of determining that the provisions of this chapter are being met and may cancel the contract with any municipality or county which the *department* ~~division~~ finds has failed to comply with such contract or the provisions of this chapter. The amendments to chapter 399 by this act shall apply only to the installation, relocation, or alteration of an elevator for which a permit has been issued after October 1, 1990.

And the title is amended as follows:

On page 44, lines 7 and 8, of the amendment
remove: all of said lines,

and insert in lieu thereof: creating s. 399.001, F.S.; creating the "Elevator Safety Act"; amending s. 399.01, F.S.; defining terms; amending ss. 399.02, 399.03, F.S.; providing regulatory standards for elevators and similar conveyances; providing for permits for construction or alteration of elevators and similar conveyances; creating s. 399.049, F.S.; providing for licenses and certificates of competency; providing for disciplinary action; amending s. 399.061, F.S.; providing for annual inspections and fees; amending ss. 399.07, 399.10, 399.105, F.S.; revising administrative fines and fee-setting procedures; conforming provisions; creating s. 399.106, F.S.; creating the Elevator Safety Technical Advisory Committee; providing for its membership and authority; amending s. 399.11, 399.125, 399.13, F.S.; conforming provisions; repealing s. 399.045, F.S., which provides for a certificate of competency; repealing s. 399.05, F.S., which provides for construction permits;

Rep. Diaz-Balart moved the adoption of the amendment to the amendment.

On motion by Rep. Diaz-Balart, further consideration of **Amendment 3 to Amendment 1** was temporarily postponed under Rule 11.10.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 320837)

Amendment 4 to Amendment 1—On page 11, lines 1 and 2,
remove from the amendment: *after January 1, 2002*

Rep. Diaz-Balart moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 563731)

Amendment 5 to Amendment 1 (with title amendment)—On page 25, between lines 17 and 18,

insert:

Section 1. Effective upon this act becoming a law, section 553.84, Florida Statutes, is amended to read:

553.84 Statutory civil action.—Notwithstanding any other remedies available, any person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of a violation of this part or the State Minimum Building Codes, has a cause of action in any court of competent jurisdiction against the person or party who committed the violation*, provided that if the person or party obtains the required building permit and any local government or public agency with authority to enforce the building code approves the plans and the construction project passes all required inspections under the code, and there is no personal injury or damage to property other than the property that is the subject of the permits, plans, and inspections, this section shall not apply unless the person or party knew or should have known that the violation existed notwithstanding the approval of the permits, plans, and inspections*.

And the title is amended as follows:

On page 45, line 18, of the amendment

after the semicolon insert: amending s. 553.84, F.S.; providing for nonapplication of certain civil action provisions under certain circumstances;

Rep. Diaz-Balart moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 102441)

Amendment 6 to Amendment 1—On page 40, lines 3 and 4,
remove from the amendment: all of said lines

and insert in lieu thereof:

(f) One member from the Florida Association of the American Institute of Architects; and

Rep. Diaz-Balart moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 855761)

Amendment 7 to Amendment 1—On page 42, line 25,
remove from the amendment: *The*

and insert in lieu thereof: *Effective upon this act becoming a law, the*

Rep. Diaz-Balart moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Diaz-Balart offered the following:

(Amendment Bar Code: 740267)

Amendment 8 to Amendment 1—On page 43, line 10,
remove from the amendment: all of said line

and insert in lieu thereof: *Effective July 1, 2001,*

Rep. Diaz-Balart moved the adoption of the amendment to the amendment, which was adopted.

Representative(s) Wiles offered the following:

(Amendment Bar Code: 731155)

Amendment 9 to Amendment 1 (with title amendment)—On page 43, lines 19 & 20,
remove from the amendment: all of said lines

And the title is amended as follows:

On page 46, lines 26-30, of the amendment
remove: all of said lines

and insert in lieu thereof: providing an

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

The question recurred on the adoption of **Amendment 3 to Amendment 1**, which was withdrawn.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted.

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

Continuation of Bills and Joint Resolutions on Third Reading

CS for SB 838—A bill to be entitled An act relating to landlord and tenant; amending s. 83.67, F.S.; exempting certain landlords from a requirement to give notice to former tenants regarding personal property; amending s. 475.011, F.S.; providing an exemption from the real estate brokers and salespersons regulatory law; amending ss. 715.105, 715.106, 715.109, F.S.; increasing the value of abandoned personal property that may be kept, sold, or destroyed by a landlord; conforming notice provisions; providing for termination of a rental agreement by a member of the United States Armed Forces; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 367

Yeas—109

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

Nays—4

Kendrick	Pickens	Romeo	Simmons

Votes after roll call:
Yeas—Ryan, Seiler

So the bill passed, as amended, and was immediately certified to the Senate.

CS for CS for SB 1258—A bill to be entitled An act relating to behavioral health services; providing legislative findings with respect to providing mental health and substance-abuse-treatment services; permitting the Department of Children and Family Services and the Agency for Health Care Administration to contract for the establishment of two behavioral health service delivery strategies to test methods and techniques for coordinating, integrating, and managing the delivery of mental health services and substance-abuse-treatment services for persons with emotional, mental, or addictive disorders; requiring a managing entity for each service delivery strategy; requiring that costs be shared by the Department of Children and Family Services and the Agency for Health Care Administration; specifying the goals of the service delivery strategies; specifying the target population of persons to be enrolled under each strategy; requiring a continuing care system; requiring an advisory body for each demonstration model; requiring certain cooperative agreements; providing reporting requirements; requiring an independent entity to evaluate the service delivery strategies; requiring annual reports; creating a Behavioral Health Services Integration Workgroup; requiring the Secretary of the Department of Children and Family Services to appoint members to the Workgroup; providing authority for a transfer of funds to support the Workgroup; requiring the Workgroup to report to the Governor and the Legislature; creating s. 394.499, F.S.; authorizing the Department of Children and Family Services, in consultation with the Agency for Health Care Administration, to establish children's behavioral crisis unit demonstration models to provide integrated emergency mental health and substance abuse services to persons under 18 years of age at facilities licensed as children's crisis stabilization units; providing for standards, procedures, and requirements for services; providing eligibility criteria; requiring the department to report on the initial demonstration models; providing for expanding the demonstration models; providing for independent evaluation and report; providing rulemaking authority; amending s. 394.66, F.S.; providing legislative intent; creating s. 394.741, F.S.; requiring the Agency for Health Care Administration and the Department of Children and Family Services to accept accreditation in lieu of its administrative and program monitoring under certain circumstances; amending s. 394.90, F.S.; requiring the Agency for Health Care Administration to accept accreditation in lieu of its onsite licensure reviews; amending s. 397.411, F.S.; requiring the Department of Children and Family Services to accept accreditation in lieu of its onsite licensure reviews; amending s. 397.403, F.S.; conforming provisions; providing an appropriation; providing an effective date.

—was read the third time by title.

Reconsideration

On motion by Rep. Murman, by the required two-thirds vote, the House reconsidered the vote by which **Amendment 1** was adopted (shown in the *Journal* on pages 867-872, April 26). The question recurred on the adoption of the amendment.

Representative(s) Murman and Maygarden offered the following:

(Amendment Bar Code: 212235)

Amendment 1 to Amendment 1 (with title amendment)—On page 16, between lines 20 and 21

insert:

(g) Medicaid contracts for Behavioral Health Overlay Services for dependent children or delinquent children will remain fee-for-service. Any provider who currently contracts to provide Medicaid behavioral health services with residential group care facilities under the Family Safety program of the Department of Children and Family Services or with the Department of Juvenile Justice to serve delinquent youth in residential commitment programs shall be included in the network of providers in both service delivery strategies and shall continue the existing staffing arrangements. During the operation of the service delivery strategies, any new behavioral health provider that enters into a contract with residential group care facilities under the Family Safety program of the Department of Children and Family Services or with the Department of Juvenile Justice for delinquent youth in residential commitment programs shall also be included in the network.

And the title is amended as follows:

On page 27, line 8 of the amendment after the semicolon

insert: requiring certain contracts for overlay services remain fee-for-services;

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

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS for CS for SB 1258. The vote was:

Session Vote Sequence: 368

Yeas—120

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

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

On motion by Rep. Goodlette, the House moved to the consideration of HB 915.

Bills and Joint Resolutions on Second Reading

HB 915—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the cities of Fort Lauderdale and Dania Beach; providing for annexation of specified unincorporated land; providing for an election; providing for an effective date of annexation; providing an effective date.

—was read the second time by title.

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 552503)

Amendment 1—On page pg 8, line 17,
remove from the bill: *November 5, 2002,*

and insert in lieu thereof: *March 12, 2002,*

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

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 175727)

Amendment 2—On page 9, line 3,
remove from the bill: *2003*

and insert in lieu thereof: *2002*

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

REPRESENTATIVE BALL IN THE CHAIR

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 073749)

Amendment 3—On page 9, line 17,
remove from the bill: November 5, 2002

and insert in lieu thereof: *March 12, 2002* ~~November 5, 2002~~

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

The Committee on Local Government & Veterans Affairs offered the following:

(Amendment Bar Code: 084101)

Amendment 4—On page 9, between lines 10 and 11, of the bill

insert:

Section 7. *Upon annexation into a municipality, the following shall govern the areas described in Section 2: for any use, building, or structure that is legally in existence at the time the Riverland area becomes a part of the municipality, such use shall not be made a prohibited use by the municipality, on the property of said use, for as long as the use shall continue and is not voluntarily abandoned.*

Section 8. *Subsequent to the effective date of this act, no change in land use designation or zoning shall be effective within the limits of the*

lands subject to annexation herein until the Riverland Area has been annexed into the municipality, nor shall annexation by any municipality occur during the period between the effective date of this act and the effective date of the annexation.

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

Representative(s) Ritter offered the following:

(Amendment Bar Code: 094637)

Amendment 5—On page 9, lines 13-20, remove from the bill: all of said lines

and insert in lieu thereof:

Section 8. This act shall take effect upon becoming a law.

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

On motion by Rep. Ritter, the rules were waived and HB 915, as amended, was read the third time by title. On passage, the vote was:

Session Vote Sequence: 369

Yeas—114

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

Nays—1

Smith

Votes after roll call:
Yeas—Davis

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Goodlette, the House moved to the consideration of SB 272 on Bills and Joint Resolutions on Third Reading.

Bills and Joint Resolutions on Third Reading

SB 272—A bill to be entitled An act relating to law enforcement officers; amending s. 817.564, F.S.; providing an exemption from civil or criminal liability for the sale of imitation controlled substances by law enforcement officers and other persons acting at their direction; providing an effective date.

—was read the third time by title.

Reconsideration

On motion by Rep. Atwater, by the required two-thirds vote, the House reconsidered the vote by which **Amendment 1** to **SB 272** was adopted (shown in the *Journal* on page 1082, April 27).

The question recurred on the adoption of **Amendment 1,** which was withdrawn.

The question recurred on the passage of SB 272. The vote was:

Session Vote Sequence: 370

Yeas—119

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

Nays—None

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Goodlette, the House moved to the consideration of HB 1221 on Bills and Joint Resolutions on Third Reading.

HB 1221—A bill to be entitled An act relating to water resources; amending s. 373.1961, F.S.; allowing certain alternative water supply facilities to recover the cost of such facilities through rate structures; amending s. 373.083, F.S.; authorizing water management districts to solicit donations; amending s. 373.093, F.S.; authorizing water management districts to lease certain personal property; creating s. 373.608, F.S.; authorizing water management districts to obtain and enforce patents, copyrights, and trademarks on work products of the district; providing for rules; creating s. 373.610, F.S.; authorizing water management districts to suspend contractors who have defaulted on contracts; providing procedure; providing for rules; creating s. 373.611, F.S.; authorizing water management districts to enter into contracts to limit or alter the measure of damages recoverable from a vendor; amending s. 373.0693, F.S.; providing for membership on the Manasota Basin Board and for the resolution of tie votes; amending s. 73.015, F.S.; clarifying time-frame for providing specific information to fee-owners; requiring agencies to provide specified portions of statute to fee-owners;

amending s. 270.11, F.S.; providing discretion to water management districts, local governments, board of trustees and other state agencies to determine whether to reserve mineral interests when selling lands; clarifying the types of information to be given by land-owner wanting a release of a reservation; amending s. 373.056, F.S.; granting water management districts the authority to grant utility easements on district-owned land for providing utility service; amending s. 373.093, F.S.; granting additional time to water management districts to provide notification before executing lease agreements; amending s. 373.096, F.S.; providing for release of certain easements, reservations, or right-of-way interests; amending s. 373.139, F.S.; authorizing water management districts to cure title defects after a land sale is executed; allowing water management districts to disclose appraisal information, offers and counter offers to third parties working on the district's behalf; allowing third party appraisals to be used under specific circumstances; amending s. 373.1401, F.S.; allowing water management districts to contract with private entities for management, improvement, or maintenance of land held by the districts; amending s. 110.152, F.S.; specifying employees who are entitled to receive such benefits for adopting a special-needs child; deleting references to water management district employees; prescribing the manner of establishing the amount of such benefits; amending s. 110.15201, F.S.; providing that rules for administering such adoption benefits may provide for an application process; deleting a reference to water management district employees; amending s. 215.32, F.S.; requiring the Comptroller and the Department of Management Services to transfer funds to water management districts to pay monetary benefits to water management district employees; creating s. 373.6065, F.S.; providing child-adoption monetary benefits to water management district employees; amending s. 373.536, F.S.; revising notice and hearing provisions relating to the adoption of a final budget for the water management districts; specifying to whom a copy of the water management districts' tentative budget must be sent for review; specifying the contents of the tentative budget; requiring the Executive Office of the Governor to file with the Legislature a report summarizing its review of the water management districts' tentative budgets and displaying the adopted budget allocations by program area; requiring the water management districts to submit certain budget documents to specified officials; amending s. 373.079, F.S.; deleting a requirement that the water management districts submit a 5-year capital improvement plan and fiscal report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of Environmental Protection; amending s. 373.59, F.S.; providing for the transfer of certain funds; amending s. 373.501, F.S.; providing for the release of moneys from the Water Management Lands Trust Fund; repealing s. 373.507, F.S., relating to postaudits and budgets of water management districts and basins; repealing s. 373.589, F.S., relating to audits of water management districts; providing an effective date.

—was read the third time by title.

The Procedural & Redistricting Council offered the following:

(Amendment Bar Code: 093489)

Technical Amendment 8—On page 2 line 25, after the semicolon,

insert: amending s. 374.984, F.S.; revising powers and duties of the Board of Commissioners of the Florida Inland Navigation District;

and on page 19, line 11, after "*110.15201*"

insert: .

and on page 28, line 6,
remove from the bill: *;*

and insert in lieu thereof: *:*

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

Representative(s) Lacasa offered the following:

(Amendment Bar Code: 184931)

Amendment 9 (with title amendment)—On page 31, between lines 22 and 23,

insert:

Section 25. *Funds from Specific Appropriations 1591G of Chapter 2000-166, Laws of Florida, in the amount of $1,000,000 for Wastewater (Sewer) Infrastructure - City of South Miami shall revert and are hereby reappropriated for drinking water facility construction for the City of South Miami.*

And the title is amended as follows:

On page 4, line 9, after the semicolon

insert: providing an appropriation;

Rep. Lacasa moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of HB 1221. The vote was:

Session Vote Sequence: 371

Yeas—116

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

Nays—None

Votes after roll call:
Yeas—Wishner

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

Reconsideration of CS/CS/HB 1053

On motion by Rep. Russell, the House reconsidered the vote by which **CS/CS/HB 1053**, as amended, passed earlier today.

CS/CS/HB 1053—A bill to be entitled An act relating to transportation; amending s. 333.03, F.S.; requiring an airport authority or other governing body operating a publicly owned public-use airport to utilize the most recently approved noise exposure map; amending s. 20.23, F.S.; revising language with respect to the organization of the department; deleting responsibilities assigned to the secretary; providing that the secretary or his or her designee shall submit a report on major actions at each meeting of the Florida Transportation Commission; s. 315.031, F.S.; authorizing certain entertainment expenditures for seaport; revising language with respect to assistant

secretaries; creating the Office of Comptroller; deleting language with respect to the inspector general and comptroller; changing the Turnpike District into a turnpike enterprise; giving the Secretary of Transportation the authority to exempt the turnpike enterprise from department policies, procedures, and standards; giving the secretary authority to promulgate rules that will assist the turnpike enterprise in using best business practices; amending s. 110.205, F.S.; correcting cross references, to conform; amending s. 189.441, F.S.; removing an exemption to s. 287.055, F.S.; amending s. 206.46, F.S.; revising language with respect to the State Transportation Trust Fund; increasing the debt service cap; amending s. 255.20, F.S.; exempting certain transportation projects for certain competitive bidding requirements; amending s. 287.005, F.S.; increasing the amount defining a continuing contract; amending s. 311.07, F.S.; adding seaport security projects to the types of projects eligible for these funds; exempting seaport security projects from matching requirements; amending s. 311.09, F.S.; directing seaports to abide by the provisions of s. 287.055, F.S., related to competitive negotiation; amending s. 316.302, F.S.; revising a date concerning commercial motor vehicles to conform to federal regulations; amending s. 316.3025, F.S.; updating a cross reference to federal trucking regulations; amending s. 316.515, F.S.; deleting a requirement for a department permit with respect to the height of automobile transporters; amending s. 316.535, F.S.; adding weight requirements for certain commercial trucks; amending s. 316.545, F.S.; correcting a cross reference; amending s. 330.27, F.S.; revising definitions relating to aviation; providing definitions; amending s. 316.650, F.S.; requiring the issuance of a copy of the Traffic School Reference Guide with traffic citations; amending s. 318.14, F.S.; deleting reference to a restriction on the number of elections a person may make to attend a basic driver improvement course; amending s. 318.1451, F.S.; providing an assessment fee with respect to driver improvement courses for persons who are ordered by the court to attend and for certain other violations; amending s. 322.0261, F.S.; deleting reference to a time period and increasing the amount of damage required with respect to a crash for the screening of certain crash reports; creating s. 322.02615, F.S.; providing for mandatory driver improvement courses for certain violations; amending s. 322.05, F.S.; adding a condition for the issuance of a driver's license to certain persons; amending s. 330.29, F.S.; clarifying the department's rulemaking authority with respect to airports; amending s. 330.30, F.S.; eliminating airport license fees; revising language with respect to the department's site approval process; eliminating on-site inspections of private airports; creating a registration process for private airports; providing conditions; deleting obsolete language; providing exceptions; amending s. 330.35, F.S.; deleting obsolete language with respect to airport zoning; amending s. 330.36, F.S.; providing conditions under which municipalities may prohibit or otherwise regulate seaplanes; amending s. 332.004, F.S.; adding off-airport noise mitigation projects to the projects eligible for federal and state matching funds; amending s. 334.044, F.S.; authorizing the department to expend promotional money on scenic highway projects; authorizing the department to delegate its drainage permitting responsibilities to other governmental entities under certain circumstances; amending s. 334.193, F.S.; providing for employee bidding by department employees; amending s. 334.30, F.S.; clarifying existing program for public-private transportation projects; deleting requirement for legislative approval except for projects requiring more than $50 million from the State Transportation Trust Fund; specifying notice and selection requirements for projects under this section; allowing Internal Revenue Service Code chapter 63-20 corporations to participate in these public-private transportation projects; providing conditions for using loans from Toll Facilities Revolving Trust Fund; deleting obsolete language; creating s. 335.066, F.S.; creating the Safe Paths to Schools Program; directing the department to establish the program and to authorize establishment of a grant program for purposes of funding the program; authorizing the department to adopt rules to administer the program; amending s. 335.141, F.S.; eliminating the requirement that the department regulate all train speeds; amending s. 336.12, F.S.; creating process for homeowners' associations to be conveyed roads and rights-of-way abandoned by a county governing board for the purpose of converting a subdivision to a gated neighborhood; amending s. 336.41, F.S.; clarifying that a contract already qualified by the Department of Transportation is presumed qualified to bid on county road projects; amending s. 336.44, F.S.; replacing the term "competent" with "responsible bidder"; amending s. 337.107, F.S.; authorizing the department to enter into design-build contracts that include right-of-acquisition services; amending s. 337.11, F.S.; raising the cap on certain contracts into which the department can enter without first obtaining bids; adding enhancement projects to the types of projects that can be combined into a design-build contract; specifying that construction on design-build projects may not begin until certain conditions have been met; amending s. 337.14, F.S.; clarifying that contractors qualified by the Department of Transportation are presumed qualified to bid on projects for expressway authorities; amending s. 337.401, F.S.; providing that for projects on public roads or rail corridors under the department's jurisdiction, a utility relocation schedule and relocation agreement may be executed in lieu of a written permit; amending s. 339.08, F.S.; clarifying language with respect to the use of moneys in the State Transportation Trust Fund; amending s. 339.12, F.S.; providing that local governments which perform projects for the department are reimbursed promptly; specifying that certain counties that use revenues from a 1-cent local option sales tax for state transportation improvement projects not be penalized by receiving fewer state transportation funds; amending s. 339.135, F.S.; conforming language with respect to the tentative work program; conforming a reference to the turnpike district; amending s. 339.137, F.S.; revising definitions; amending criteria for program eligibility; directing the advisory council to develop methodology for ranking and prioritizing project proposals; directing the Florida Transportation Commission to review the proposed project list before submittal to the Legislature; amending s. 341.051, F.S.; deleting obsolete language; amending s. 341.302, F.S.; deleting language requiring the department to perform certain railroad regulation tasks which are federal responsibilities; amending s. 348.0003, F.S.; giving a county governing body authority to set qualifications, terms of office, and obligations for the members of expressway authorities within their jurisdictions; amending ss. 348.0012, 348.754, 348.7543, 348.7544, 348.7545, 348.755, and 348.765, F.S.; giving the Orlando-Orange County Expressway Authority the ability to issue bonds, rather than issuance through the state Division of Bond Finance; amending s. 373.4137, F.S.; allowing transportation authorities created pursuant to chs. 348 and 349, F.S., to create environmental impact inventories and participate in a mitigation program to offset adverse impacts caused by their transportation projects; amending s. 373.414, F.S.; providing for legislative review of the uniform wetland mitigation assessment method rule; amending s. 475.011, F.S.; granting exemption from Florida licensing for certain firms or their employees under contract with the state or a local governmental entity to provide right-of-way acquisition services for property subject to condemnation; amending s. 479.15, F.S.; revising language with respect to harmony of regulations concerning lawfully erected signs; creating s. 479.25, F.S.; authorizing local governments to enter into agreements which allow outdoor signs to be erected above sound barriers; creating s. 70.20, F.S.; creating process for governmental entities and sign owners to enter into relocation and reconstruction agreements related to outdoor advertising signs; providing for just compensation to sign owners under certain conditions; amending s. 496.425, F.S.; redefining the term "facility"; creating s. 496.4256, F.S.; providing that a governmental entity or authority that owns or operates welcome centers, wayside parks, service plazas, or rest areas on the state highway system are not required to issue a permit to, or grant access to, any person for the purpose of soliciting funds; repealing s. 316.3027, F.S.; relating to identification requirements on certain commercial motor vehicles; amending s. 337.408, F.S.; revising language with respect to the regulation of benches, transit shelters, and waste disposal receptacles within rights-of-way; providing for regulation of street light poles; amending s. 380.0651, F.S.; excluding certain wholesaling facilities from development-of-regional-impact review; deleting provision which provides the development-of-regional-impact statewide guidelines and standards for airports; deleting provision which provides for certain residential developments located in one county to be treated as located in an adjacent less populated county; amending s. 768.28, F.S.; providing that certain operators of rail services and providers of security for rail services are agents of the state for certain purposes; providing for indemnification; repealing s. 316.610(3), F.S.; relating to certain inspections of certain commercial motor vehicles; amending s. 337.025, F.S.; eliminating cap on innovative highway projects for the turnpike enterprise; amending s. 337.11, F.S.;

providing an exemption for a turnpike enterprise project; amending s. 338.22, F.S.; redesignating the Florida Turnpike Law as the Florida Turnpike Enterprise Law; amending s. 338.221, F.S.; redefining the term "economically feasible" as used with respect to turnpike projects; creating s. 338.2215, F.S.; providing legislative findings, policy, purpose, and intent for the Florida Turnpike Enterprise; creating s. 338.2216, F.S.; prescribing the power and authority of the turnpike enterprise; amending s. 338.223, F.S.; increasing the maximum loan amount for the turnpike enterprise; amending ss. 338.165 and 338.227, F.S.; conforming provisions; amending s. 338.2275, F.S.; authorizing the turnpike enterprise to advertise for bids for contracts prior to obtaining environmental permits; amending s. 338.234, F.S.; authorizing the turnpike enterprise to expand business opportunities; amending s. 338.235, F.S.; authorizing the consideration of goods instead of fees; amending s. 338.239, F.S.; providing that approved expenditure to the Florida Highway Patrol be paid by the turnpike enterprise; amending s. 338.241, F.S.; lowering the required cash reserve for the turnpike enterprise; amending s. 338.251, F.S.; conforming provisions; amending s. 553.80, F.S.; providing for self-regulation; amending s. 333.06, F.S.; requiring each licensed publicly owned and operated airport to prepare an airport master plan; providing notice to affected local governments with respect thereto; amending s. 380.06, F.S., relating to developments of regional impact; removing the rebuttable presumptions with respect to application of the statewide guidelines and standards; removing provisions which specify that certain changes in airport facilities or increases in the storage capacity for chemical or petroleum storage facilities constitute a substantial deviation and require further development-of-regional-impact review; exempting certain proposed facilities for the storage of any petroleum product from development-of-regional-impact requirements; amending ss. 163.3180 and 331.303, F.S.; correcting references; providing application with respect to airports and petroleum storage facilities which have received a development-of-regional-impact development order, or which have an application for development approval or notification of proposed change pending, on the effective date of the act; providing for severability; authorizing a board of county commissioners to require by ordinance that an additional amount be collected with each civil fine and used to fund traffic education and awareness programs; providing an effective date.

The question recurred on the passage of CS/CS/HB 1053.

Reconsideration

On motion by Rep. Russell, by the required two-thirds vote, the House reconsidered the vote by which **Amendment 8**, as amended, was adopted, earlier today.

Representative(s) Russell offered the following:

(Amendment Bar Code: 961675)

Amendment 7 to Amendment 8—On page 66, line 29 through page 76, line 19,
remove from the amendment: all of said lines

and insert in lieu thereof:

Section 1. Section 339.137, Florida Statutes, is amended to read:

339.137 Transportation Outreach Program (TOP) supporting economic development; administration; definitions; eligible projects; Transportation Outreach Program (TOP) advisory council created; limitations; funding.—

(1) There is created within the Department of Transportation, a Transportation Outreach Program (TOP) dedicated to funding transportation projects of a high priority based on the ~~prevailing~~ principles of ~~preserving the existing transportation infrastructure;~~ enhancing Florida's economic growth and competitiveness *in national and international markets; promoting intermodal transportation linkages for passengers and freight*; and improving travel choices to ensure *efficient and cost-competitive* mobility *for Florida citizens, visitors, services, and goods*.

(2) For purposes of this section, words and phrases shall have the following meanings:

(a) ~~Preservation. Protecting the state's transportation infrastructure investment. Preservation includes:~~

~~1. Ensuring that 80 percent of the pavement on the State Highway System meets department standards;~~

~~2. Ensuring that 90 percent of department-maintained bridges meet department standards; and~~

~~3. Ensuring that the department achieves 100 percent of acceptable maintenance standards on the State Highway System.~~

~~(b)~~ Economic growth and competitiveness.—Ensuring that state transportation investments promote economic activities which result in development or retention of income generative industries which increase per capita earned income in the state, and that such investments improve the state's economic competitiveness.

(b)~~(c)~~ Mobility.—Ensuring a cost-effective, statewide, interconnected transportation system.

(c)~~(d)~~ The term "regionally significant transportation project ~~of critical concern~~" means a transportation facility improvement project located in one *or more counties* ~~county~~ which provides significant enhancement of economic development opportunities in *that region* ~~an adjoining county or counties and which provides improvements to a hurricane evacuation route~~.

(3) Transportation Outreach Program projects may be proposed by any local government, regional organization, economic development board, public or private partnership, metropolitan planning organization, state agency, or other entity engaged in economic development activities.

(4)~~(3)~~ *Proposed* ~~Eligible~~ projects *that meet the minimum eligibility threshold* include those for planning, designing, acquiring rights-of-way for, or constructing the following:

(a) Major highway improvements *to:*~~.~~

1. *The* Florida Intrastate Highway System.

2. *Major roads and* feeder roads which provide linkages to *the Florida Intrastate Highway System* ~~major highways~~.

3. Bridges of statewide or regional significance.

4. Trade and economic development corridors.

5. Access projects for freight and passengers.

6. Hurricane evacuation routes.

(b) Major public transportation projects*:*~~.~~

1. Seaport projects which improve cargo and passenger movements *or connect the seaports to other modes of transportation*.

2. Aviation projects which increase passenger enplanements and cargo activity *or connect airports to other modes of transportation*.

3. Transit projects which improve mobility on interstate highways, ~~or which~~ improve regional or localized travel*, or connect to other modes of transportation*.

4. Rail projects that facilitate the movement of passengers and cargo*,* including ancillary pedestrian facilities*, or connect rail facilities to other modes of transportation*.

5. Spaceport Florida Authority projects which improve space transportation capacity and facilities consistent with the provisions of s. 331.360.

~~6. Bicycle and pedestrian facilities that add to or enhance a statewide system of public trails.~~

(c) Highway and bridge projects that facilitate retention and expansion of military installations, or that facilitate reuse and development of any military base designated for closure by the Federal Government.

Each proposed project must be able to document that it promotes economic growth and competitiveness, as defined in paragraph (2)(a).

(5) In addition to the above minimum eligibility requirements, each proposed project must comply with the following eligibility criteria:

(a) The project or project phase selected can be made production-ready within a 5-year period following the end of the current fiscal year.

(b) The project is consistent with a current transportation system plan such as the Florida Intrastate Highway System, aviation, intermodal/rail, seaport, spaceport, or transit system plans.

(c) The project is not inconsistent with an approved local comprehensive plan of any local government within whose boundaries the project is located in whole or in part, or, if inconsistent, is accompanied by an explanation of why the project should be undertaken.

One or more of the minimum criteria listed in paragraphs (a)-(c) may be waived for a regionally significant transportation project.

~~(4) Transportation Outreach projects may be proposed by any local government, regional organization, economic development board, public or private partnership, metropolitan planning organization, state agency, or other entity engaged in economic development activities.~~

(6)~~(5)~~ *The following criteria shall be used* ~~Transportation funding under this section shall use the following mechanisms~~ to prioritize *the eligible* ~~proposed~~ projects:

(a) *The project must promote economic growth and competitiveness.* ~~Economic development-related transportation projects may compete for funding under the program. Projects funded under this program should provide for increased mobility on the state's transportation system. Projects which have local or private matching funds may be given priority over other projects.~~

(b) *The project must promote intermodal transportation linkages for passengers and freight.* ~~Establishment of a funding allocation under this program reserved to quickly respond to transportation needs of emergent economic competitiveness development projects that may be outside of the routine project selection process. This funding may be used to match local or private contributions for transportation projects which meet the definition of economic competitiveness contained in this section.~~

(c) *The project must broaden transportation choices for Florida residents, visitors, and commercial interests in order to ensure efficient and cost-competitive mobility of people, services, and goods.* ~~Establish innovative financing methods to enable the state to respond in a timely manner to major or emergent economic development-related transportation needs that require timely commitments. These innovative financing methods include, but are not limited to, the state infrastructure bank, state bonds for right-of-way acquisition and bridge construction, state bonds for fixed guideway transportation systems, state bonds for federal aid highway construction, funds previously programmed by the department for high-speed rail development, and any other local, state, or federal funds made available to the department.~~

(d) Projects that have local, federal, or private matching funds shall be given priority over projects that meet all the other criteria.

(7) Eligible projects shall also utilize innovative financing methods that enable the state to respond in a timely manner to major or emergent economic development-related transportation needs that require timely commitments. These innovative financing methods include, but are not limited to, private investment strategies, use of the state infrastructure bank, state bonds for right-of-way acquisition and bridge construction, state bonds for fixed guideway transportation systems, state bonds for federal aid highway construction, funds previously programmed by the department for high-speed rail development, and any other local, state, or federal funds made available to the department.

~~(6) In addition to complying with the prevailing principles provided in subsection (1), to be eligible for funding under the program, projects must also meet the following minimum criteria:~~

~~(a) The project or project phase selected can be made production-ready within a 5-year period following the end of the current fiscal year.~~

~~(b) The project is listed in an outer year of the 5-year work program and can be made production-ready and advanced to an earlier year of the 5-year work program.~~

~~(c) The project is consistent with a current transportation system plan including, but not limited to, the Florida Intrastate Highway System, aviation, intermodal/rail, seaport, spaceport, or transit system plans.~~

~~(d) The project is not inconsistent with an approved local comprehensive plan of any local government within whose boundaries the project is located in whole or in part or, if inconsistent, is accompanied by an explanation of why the project should be undertaken.~~

~~(e) One or more of the minimum criteria listed in paragraphs (a)-(d) may be waived for a statewide or regionally significant transportation project of critical concern.~~

(8)~~(7)~~ The Transportation Outreach Program (TOP) advisory council is created to annually make recommendations to the Legislature on prioritization and selection of economic growth projects as provided in this section.

(a) The council shall consist of:

1. Two representatives of private interests*, chosen by the Speaker of the House of Representatives,* who are directly involved in or affected by any mode of transportation or tourism ~~chosen by the Speaker of the House of Representatives~~.

2. Two representatives of private interests*, chosen by the President of the Senate,* who are directly involved in or affected by any mode of transportation or tourism ~~chosen by the President of the Senate~~.

3. Three representatives of private or governmental interests*, chosen by the Governor,* who are directly involved in or affected by any mode of transportation or tourism ~~chosen by the Governor~~.

(b) Terms for council members shall be 2 years, and each member shall be allowed one vote. *Every 2 years, the council shall select from among its membership a chair and vice chair.*

(c) ~~Initial appointments must be made no later than 60 days after this act takes effect.~~ Vacancies in the council shall be filled in the same manner as the initial appointments.

(d) ~~The council shall hold its initial meeting no later than 30 days after the members have been appointed in order to organize and select a chair and vice chair from the council membership.~~ Meetings shall be held at the call of the chair, but not less frequently than quarterly.

(e) The members of the council shall serve without compensation, but shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

(f) The department shall provide administrative staff support, *ensuring that council meetings are electronically recorded. Such recordings and all documents received, prepared for, or used by the council in conducting its business shall be preserved pursuant to chapters 119 and 257. In addition, the department shall provide in its annual budget for* travel and per diem expenses for the council.

(g) The council shall develop a methodology for scoring and ranking project proposals, based on the prioritization criteria in subsection (6). The council may change a project's ranking based on other factors as determined by the council. However, such other factors must be fully documented in writing by the council.

(h) The council is encouraged to seek input from transportation or economic-development entities and to consider the reports and recommendations of task forces, study commissions, or similar entities charged with reviewing issues relevant to the council's mission.

(9)~~(8)~~ Because transportation investment plays a key role in economic development, the council and the department shall actively

participate in state and local economic development programs, including:

(a) Working in partnership with other state and local agencies in business recruitment, expansion, and retention activities to ensure early transportation input into these activities.

(b) Providing expertise and rapid response in analyzing the transportation needs of emergent economic development projects.

(c) *Developing* ~~The council and department must develop~~ a macroeconomic analysis of the linkages between transportation investment and economic performance, as well as a method to quantifiably measure the economic benefits of the investments.

(d) Identifying long-term strategic transportation projects that will promote the principles listed in subsection (1).

(10)~~(9)~~ The council shall review and prioritize projects submitted for funding under the program ~~with priority given to projects which comply with the prevailing principles provided in subsection (1),~~ and shall recommend to the Legislature a transportation outreach program. The department shall provide technical expertise and support as requested by the council, and shall develop financial plans, cash forecast plans, and program and resource plans necessary to implement this program. These supporting documents shall be submitted with the Transportation Outreach Program.

(11)(a)~~(10)~~ Projects recommended for funding under the Transportation Outreach Program shall be submitted to the *Florida Transportation Commission at least 30 days before the start of the regular legislative session. The Florida Transportation Commission shall review the projects to determine whether they are in compliance with this section and prepare a report detailing its findings.*

(b) The council shall submit its list of recommended projects to the Governor and the Legislature as a separate *budget request submitted at the same time as* ~~section of~~ the department's tentative work program*, which is 14 days before the start of the regular session. The Florida Transportation Commission shall submit its written report at the same time to the Governor and the Legislature*. Final approval of the Transportation Outreach Program *project list* shall be made by the Legislature through the General Appropriations Act. Program projects approved by the Legislature must be included in the department's adopted work program.

(12)~~(11)~~ For purposes of funding projects under the *Transportation Outreach* Program, the department shall allocate from the State Transportation Trust Fund in its program and resource plan a minimum of $60 million each year beginning in fiscal *year* 2001-2002 ~~for a transportation outreach program~~. This funding is to be reserved for projects to be funded *pursuant to this section* ~~under the Transportation Outreach Program~~. This allocation of funds is in addition to any funding provided to this program by any other provision of law.

(13)~~(12)~~ Notwithstanding any other law to the contrary the requirements of ss. 206.46(3), 206.606(2), 339.135, 339.155, and 339.175 shall not apply to the Transportation Outreach Program.

(14)~~(13)~~ The department is authorized to adopt rules to implement the Transportation Outreach Program supporting economic development.

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

The question recurred on the adoption of **Amendment 8**, as amended, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/CS/HB 1053. The vote was:

Session Vote Sequence: 372

Yeas—112

The Chair	Andrews	Arza	Atwater
Allen	Argenziano	Attkisson	Ausley
Barreiro	Farkas	Johnson	Paul
Baxley	Fasano	Jordan	Peterman
Bean	Feeney	Joyner	Pickens
Bendross-Mindingall	Fields	Kallinger	Prieguez
Bennett	Fiorentino	Kendrick	Rich
Bense	Flanagan	Kilmer	Richardson
Benson	Frankel	Kosmas	Ritter
Berfield	Gannon	Kottkamp	Romeo
Betancourt	Garcia	Kravitz	Ross
Bowen	Gardiner	Kyle	Rubio
Brown	Gelber	Lee	Russell
Brummer	Gibson	Lerner	Ryan
Brutus	Goodlette	Littlefield	Seiler
Bucher	Gottlieb	Lynn	Simmons
Bullard	Green	Machek	Siplin
Byrd	Greenstein	Mack	Slosberg
Cantens	Haridopolos	Mahon	Smith
Carassas	Harper	Mayfield	Sobel
Clarke	Harrell	Maygarden	Sorensen
Crow	Harrington	McGriff	Stansel
Cusack	Hart	Meadows	Wallace
Davis	Henriquez	Mealor	Waters
Detert	Heyman	Melvin	Weissman
Diaz de la Portilla	Hogan	Miller	Wiles
Diaz-Balart	Holloway	Needelman	Wilson
Dockery	Jennings	Negron	Wishner

Nays—2

Bilirakis	Justice

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

On motion by Rep. Goodlette, the House moved to the consideration of SB 1424 on Bills and Joint Resolutions on Third Reading.

SB 1424—A bill to be entitled An act relating to real estate professionals; amending s. 475.25, F.S.; providing an exception to provisions governing the return of escrowed personal property; amending s. 475.22, F.S.; requiring supervisors of registered assistant real estate appraisers to sign appraisals and make certain disclosures; creating s. 475.6221, F.S.; requiring registered assistant real estate appraisers to be supervised by licensed or certified appraisers; providing supervisory guidelines; prohibiting direct payments for services to registered assistant real estate appraisers with the supervising appraiser's agreement; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 373

Yeas—119

The Chair	Bilirakis	Feeney	Henriquez
Alexander	Bowen	Fields	Heyman
Allen	Brown	Fiorentino	Hogan
Andrews	Brummer	Flanagan	Holloway
Argenziano	Brutus	Frankel	Jennings
Arza	Bucher	Gannon	Johnson
Attkisson	Bullard	Garcia	Jordan
Atwater	Byrd	Gardiner	Joyner
Ausley	Cantens	Gelber	Justice
Baker	Clarke	Gibson	Kallinger
Barreiro	Crow	Goodlette	Kendrick
Baxley	Cusack	Gottlieb	Kilmer
Bean	Davis	Green	Kosmas
Bendross-Mindingall	Detert	Greenstein	Kottkamp
Bennett	Diaz de la Portilla	Haridopolos	Kravitz
Bense	Diaz-Balart	Harper	Kyle
Benson	Dockery	Harrell	Lacasa
Berfield	Farkas	Harrington	Lee
Betancourt	Fasano	Hart	Lerner

Littlefield	Miller	Romeo	Sorensen
Lynn	Murman	Ross	Spratt
Machek	Needelman	Rubio	Stansel
Mack	Negron	Russell	Trovillion
Mahon	Paul	Ryan	Wallace
Mayfield	Peterman	Seiler	Waters
Maygarden	Pickens	Simmons	Weissman
McGriff	Prieguez	Siplin	Wiles
Meadows	Rich	Slosberg	Wilson
Mealor	Richardson	Smith	Wishner
Melvin	Ritter	Sobel	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

SB 810—A bill to be entitled An act relating to law enforcement officers; amending s. 901.252, F.S.; providing authority to municipal law enforcement officers to patrol property and facilities leased by the municipality but located outside its territorial jurisdiction; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 374

Yeas—117

The Chair	Crow	Jennings	Peterman
Alexander	Cusack	Johnson	Pickens
Allen	Davis	Jordan	Prieguez
Andrews	Detert	Joyner	Rich
Argenziano	Diaz de la Portilla	Justice	Richardson
Arza	Diaz-Balart	Kallinger	Ritter
Attkisson	Dockery	Kendrick	Romeo
Atwater	Farkas	Kilmer	Ross
Ausley	Fasano	Kottkamp	Rubio
Baker	Feeney	Kravitz	Russell
Barreiro	Fields	Kyle	Ryan
Baxley	Fiorentino	Lacasa	Seiler
Bean	Flanagan	Lee	Simmons
Bendross-Mindingall	Gannon	Lerner	Siplin
Bennett	Garcia	Littlefield	Slosberg
Bense	Gardiner	Lynn	Smith
Benson	Gelber	Machek	Sobel
Berfield	Gibson	Mack	Sorensen
Betancourt	Goodlette	Mahon	Spratt
Bilirakis	Gottlieb	Mayfield	Stansel
Bowen	Green	Maygarden	Trovillion
Brown	Haridopolos	McGriff	Wallace
Brummer	Harper	Meadows	Waters
Brutus	Harrell	Mealor	Weissman
Bucher	Harrington	Melvin	Wiles
Bullard	Hart	Miller	Wilson
Byrd	Henriquez	Murman	Wishner
Cantens	Heyman	Needelman	
Carassas	Hogan	Negron	
Clarke	Holloway	Paul	

Nays—None

Votes after roll call:
Yeas—Frankel, Greenstein, Kosmas

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Lynn, consideration of **CS/CS/HB 1533** was temporarily postponed under Rule 11.10.

CS for CS for SB 108—A bill to be entitled An act relating to the transfer of structured settlements; specifying the purpose of the act; providing definitions; providing requirements for the direct or indirect transfer of structured-settlement-payment rights; requiring that any such transfer be approved by a court; requiring that the court make certain findings with respect to the transfer; authorizing an interested party to file an objection to a proposed transfer; providing requirements for an order approving a transfer; requiring that an obligor make certain disclosures to a claimant in negotiating a settlement of claims; requiring a transferee to provide certain notice with respect to a proposed transfer of structured-settlement-payment rights; providing for penalties to be imposed for certain violations of the act; authorizing the state attorney to bring an action for injunctive relief; providing an effective date.

—was read the third time by title.

Reconsideration

On motion by Rep. Brown, by the required two-thirds vote, the House reconsidered the vote by which **Amendment 1** was adopted on April 27 (shown in the *Journal* on pages 1083-1085).

The question recurred on the adoption of Amendment 1.

Representative(s) Brown offered the following:

(Amendment Bar Code: 592189)

Amendment 1 to Amendment 1—On page 2, lines 28 and 29, remove from the amendment: *in the secondary market, that is, purchases*

Rep. Brown moved the adoption of the amendment to the amendment, which was adopted.

The question recurred on the adoption of **Amendment 1**, as amended, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS for CS for SB 108. The vote was:

Session Vote Sequence: 375

Yeas—118

The Chair	Cusack	Holloway	Negron
Alexander	Davis	Jennings	Paul
Allen	Detert	Johnson	Peterman
Andrews	Diaz de la Portilla	Jordan	Pickens
Argenziano	Diaz-Balart	Joyner	Prieguez
Arza	Dockery	Justice	Rich
Attkisson	Farkas	Kallinger	Richardson
Atwater	Fasano	Kendrick	Ritter
Ausley	Feeney	Kilmer	Romeo
Barreiro	Fields	Kosmas	Ross
Baxley	Fiorentino	Kottkamp	Russell
Bean	Flanagan	Kravitz	Ryan
Bendross-Mindingall	Frankel	Kyle	Seiler
Bennett	Gannon	Lacasa	Simmons
Bense	Garcia	Lee	Siplin
Benson	Gardiner	Lerner	Slosberg
Berfield	Gelber	Littlefield	Smith
Betancourt	Gibson	Lynn	Sobel
Bilirakis	Goodlette	Machek	Sorensen
Bowen	Gottlieb	Mack	Spratt
Brown	Green	Mahon	Stansel
Brummer	Greenstein	Mayfield	Trovillion
Brutus	Haridopolos	Maygarden	Wallace
Bucher	Harper	McGriff	Waters
Bullard	Harrell	Meadows	Weissman
Byrd	Harrington	Mealor	Wiles
Cantens	Hart	Melvin	Wilson
Carassas	Henriquez	Miller	Wishner
Clarke	Heyman	Murman	
Crow	Hogan	Needelman	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

HB 731 was taken up. On motion by Rep. Kottkamp, the rules were waived and—

SB 1766—A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; exempting from disclosure under s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, certain information pertaining to county and municipal code enforcement officers and their families; providing for future repeal and prior legislative review of these exemptions; providing a statement of public necessity for the exemptions; amending s. 119.07, F.S.; expanding the exemption for code enforcement officers to include additional information and to include such officers' spouses and children; providing for future review and repeal; providing findings of public necessity; providing an effective date.

—was substituted for HB 731 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

Representative(s) Kottkamp offered the following:

(Amendment Bar Code: 435285)

Amendment 1 (with title amendment)—On page 1, line 21 through page 4, line 6,
remove from the bill: all of said lines

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled An act relating to public records; amending s. 119.07, F.S.; providing exemptions from public records requirements for specified identifying information relating to local government or water management district human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers and their spouses and children; expanding the exemption for code enforcement officers to include additional information and to include such officers' spouses and children; providing for future review and repeal; providing findings of public necessity; providing an effective date.

Rep. Kottkamp moved the adoption of the amendment, which was adopted.

On motion by Rep. Kottkamp, the rules were waived and SB 1766 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 376

Yeas—120

The Chair	Bucher	Gibson	Kravitz
Alexander	Bullard	Goodlette	Kyle
Allen	Byrd	Gottlieb	Lacasa
Andrews	Cantens	Green	Lee
Argenziano	Carassas	Greenstein	Lerner
Arza	Clarke	Haridopolos	Littlefield
Attkisson	Crow	Harper	Lynn
Atwater	Cusack	Harrell	Machek
Ausley	Davis	Harrington	Mack
Baker	Detert	Hart	Mahon
Barreiro	Diaz de la Portilla	Henriquez	Mayfield
Baxley	Diaz-Balart	Heyman	Maygarden
Bean	Dockery	Hogan	McGriff
Bendross-Mindingall	Farkas	Holloway	Meadows
Bennett	Fasano	Jennings	Mealor
Bense	Feeney	Johnson	Melvin
Benson	Fields	Jordan	Miller
Berfield	Fiorentino	Joyner	Murman
Betancourt	Flanagan	Justice	Needelman
Bilirakis	Frankel	Kallinger	Negron
Bowen	Gannon	Kendrick	Paul
Brown	Garcia	Kilmer	Peterman
Brummer	Gardiner	Kosmas	Pickens
Brutus	Gelber	Kottkamp	Prieguez
Rich	Russell	Smith	Wallace
Richardson	Ryan	Sobel	Waters
Ritter	Seiler	Sorensen	Weissman
Romeo	Simmons	Spratt	Wiles
Ross	Siplin	Stansel	Wilson
Rubio	Slosberg	Trovillion	Wishner

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

CS for SB 1524—A bill to be entitled An act relating to water management; creating s. 373.1502, F.S.; creating the Comprehensive Everglades Restoration Plan Regulation Act; providing an expedited permitting program for project components as part of the comprehensive plan; amending s. 373.026, F.S.; providing that state funds for land purchases are authorized if contained within the Florida Forever Water Management District Work Plan; amending s. 373.470, F.S.; revising the due date for the annual comprehensive plan report; amending s. 403.088, F.S.; providing standards for the permitting of construction, operation, and maintenance of facilities in the South Florida ecosystem; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 377

Yeas—120

The Chair	Crow	Hogan	Needelman
Alexander	Cusack	Holloway	Negron
Allen	Davis	Jennings	Paul
Andrews	Detert	Johnson	Peterman
Argenziano	Diaz de la Portilla	Jordan	Pickens
Arza	Diaz-Balart	Joyner	Prieguez
Attkisson	Dockery	Justice	Rich
Atwater	Farkas	Kallinger	Richardson
Ausley	Fasano	Kendrick	Ritter
Baker	Feeney	Kilmer	Romeo
Barreiro	Fields	Kosmas	Ross
Baxley	Fiorentino	Kottkamp	Rubio
Bean	Flanagan	Kravitz	Russell
Bendross-Mindingall	Frankel	Kyle	Ryan
Bennett	Gannon	Lacasa	Seiler
Bense	Garcia	Lee	Simmons
Benson	Gardiner	Lerner	Siplin
Berfield	Gelber	Littlefield	Slosberg
Betancourt	Gibson	Lynn	Smith
Bilirakis	Goodlette	Machek	Sobel
Bowen	Gottlieb	Mack	Sorensen
Brown	Green	Mahon	Spratt
Brummer	Greenstein	Mayfield	Stansel
Brutus	Haridopolos	Maygarden	Trovillion
Bucher	Harper	McGriff	Wallace
Bullard	Harrell	Meadows	Waters
Byrd	Harrington	Mealor	Weissman
Cantens	Hart	Melvin	Wiles
Carassas	Henriquez	Miller	Wilson
Clarke	Heyman	Murman	Wishner

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate.

HB 1513 was taken up. On motion by Rep. Simmons, the rules were waived and—

SB 1428—A bill to be entitled An act relating to the State Group Insurance Program; amending ss. 110.123, 287.022, F.S.; prohibiting limitations by the state on competition for an insurance product or plan on the basis of the compensation arrangement used by the insurer or organization; providing an effective date.

—was substituted for HB 1513 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Simmons, the rules were waived and SB 1428 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 378

Yeas—118

The Chair	Cusack	Holloway	Paul
Alexander	Davis	Jennings	Peterman
Allen	Detert	Johnson	Pickens
Andrews	Diaz de la Portilla	Jordan	Prieguez
Arza	Diaz-Balart	Joyner	Rich
Attkisson	Dockery	Justice	Richardson
Atwater	Farkas	Kallinger	Ritter
Ausley	Fasano	Kendrick	Romeo
Baker	Feeney	Kilmer	Ross
Barreiro	Fields	Kosmas	Rubio
Baxley	Fiorentino	Kottkamp	Russell
Bean	Flanagan	Kravitz	Ryan
Bendross-Mindingall	Frankel	Kyle	Seiler
Bennett	Gannon	Lacasa	Simmons
Bense	Garcia	Lee	Siplin
Benson	Gardiner	Lerner	Slosberg
Berfield	Gelber	Lynn	Smith
Betancourt	Gibson	Machek	Sobel
Bilirakis	Goodlette	Mack	Sorensen
Bowen	Gottlieb	Mahon	Spratt
Brown	Green	Mayfield	Stansel
Brummer	Greenstein	Maygarden	Trovillion
Brutus	Haridopolos	McGriff	Wallace
Bucher	Harper	Meadows	Waters
Bullard	Harrell	Mealor	Weissman
Byrd	Harrington	Melvin	Wiles
Cantens	Hart	Miller	Wilson
Carassas	Henriquez	Murman	Wishner
Clarke	Heyman	Needelman	
Crow	Hogan	Negron	

Nays—None

So the bill passed and was immediately certified to the Senate.

CS/HB 1529 was taken up. On motion by Rep. Simmons, the rules were waived and—

CS for SB 1932—A bill to be entitled An act relating to controlled substances; authorizing the creation of a pilot program in Orange County to intercept illegal drug shipments through package delivery services; amending ss. 823.10, 823.01, F.S.; providing that a person who willfully keeps or maintains or aids or abets another in keeping or maintaining certain types of places where controlled substances are unlawfully used, kept, sold, or delivered commits the offense of keeping or maintaining a public nuisance; providing a penalty; amending s. 877.111, F.S., relating to inhalation, ingestion, sale, purchase, or transfer of certain harmful chemical substances; providing exceptions to applications of offenses relating to unlawful distribution, sale, purchase, transfer, or possession of nitrous oxide; amending s. 893.03, F.S., relating to controlled substance standards and schedules; adding 4-methoxymethamphetamine, 1, 4-Butanediol, Gamma-butyrolactone (GBL), Gamma-hydroxybutyric acid (GBH), methaqualone, and mecloqualone to Schedule I; deleting 1, 4-Butanediol and Gamma-hydroxybutyric acid from Schedule II; adding drug products containing Gamma-hydroxybutyric acid which are approved under the Federal Food, Drug, and Cosmetic Act to Schedule III; amending s. 893.033, F.S., relating to listed chemicals; adding chloroephedrine and chloropseudoephedrine to the list of precursor chemicals; amending s. 893.135, F.S., relating to drug trafficking; creating offenses for trafficking in Gamma-butyrolactone (GBL) and lysergic acid diethylamide (LSD); providing penalties; amending scheduling references for trafficking in Gamma-hydroxybutyric acid (GHB) and 1, 4-Butanediol; providing effective dates.

—was substituted for CS/HB 1529 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Simmons, the rules were waived and CS for SB 1932 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 379

Yeas—120

The Chair	Crow	Hogan	Needelman
Alexander	Cusack	Holloway	Negron
Allen	Davis	Jennings	Paul
Andrews	Detert	Johnson	Peterman
Argenziano	Diaz de la Portilla	Jordan	Pickens
Arza	Diaz-Balart	Joyner	Prieguez
Attkisson	Dockery	Justice	Rich
Atwater	Farkas	Kallinger	Richardson
Ausley	Fasano	Kendrick	Ritter
Baker	Feeney	Kilmer	Romeo
Barreiro	Fields	Kosmas	Ross
Baxley	Fiorentino	Kottkamp	Rubio
Bean	Flanagan	Kravitz	Russell
Bendross-Mindingall	Frankel	Kyle	Ryan
Bennett	Gannon	Lacasa	Seiler
Bense	Garcia	Lee	Simmons
Benson	Gardiner	Lerner	Siplin
Berfield	Gelber	Littlefield	Slosberg
Betancourt	Gibson	Lynn	Smith
Bilirakis	Goodlette	Machek	Sobel
Bowen	Gottlieb	Mack	Sorensen
Brown	Green	Mahon	Spratt
Brummer	Greenstein	Mayfield	Stansel
Brutus	Haridopolos	Maygarden	Trovillion
Bucher	Harper	McGriff	Wallace
Bullard	Harrell	Meadows	Waters
Byrd	Harrington	Mealor	Weissman
Cantens	Hart	Melvin	Wiles
Carassas	Henriquez	Miller	Wilson
Clarke	Heyman	Murman	Wishner

Nays—None

So the bill passed and was immediately certified to the Senate.

HB 1915 was taken up. On motion by Rep. Spratt, the rules were waived and—

CS for SB 1922—A bill to be entitled An act relating to agriculture and consumer services; amending s. 121.0515, F.S., relating to special risk membership; revising criteria for firefighters; amending s. 120.80, F.S.; providing that marketing orders under ch. 527, F.S., are not rules; amending s. 125.27, F.S.; authorizing the Department of Agriculture and Consumer Services to lease or lend equipment to governmental entities that have fire/rescue responsibilities; limiting liability for civil damages resulting from use or possession of such equipment; amending s. 193.461, F.S.; providing that, for purposes of the income methodology approach to such assessment, certain litter containment and animal waste nutrient containment structures shall be considered a part of the average yields per acre and have no separately assessable contributory value; amending s. 201.15, F.S.; authorizing the department to adopt rules regarding the distribution of funds for best management practices; amending s. 316.228, F.S.; revising requirements for lamps on projecting loads; amending s. 320.08, F.S.; redefining the term "goat" to include certain additional farm equipment for purposes of the annual license tax imposed on trucks; amending s. 403.714, F.S.; deleting a requirement that the department coordinate development of uniform product specifications for compost used by state agencies; amending s. 487.041, F.S.; authorizing the department to require and review data relating to the claims of pesticide products used as preventive treatment for termites; authorizing the department to adopt rules; amending s. 500.09, F.S.; authorizing fees for certain reinspection of food establishments; amending s. 500.12, F.S.; increasing the maximum fee

for a food permit; limiting the use of such fees; amending ss. 502.012, 502.014, F.S.; revising references relating to the pasteurized milk ordinance and milk sanitation; deleting a requirement that a copy of a federal temporary marketing permit for milk and milk products be forwarded to the department; amending s. 502.053, F.S.; clarifying milk testing requirements; amending s. 502.091, F.S.; authorizing the department to forgo the grading of certain milk products in an emergency; providing for labeling; amending s. 503.041, F.S.; providing that an attempted or purported transfer of a frozen dessert plant license is grounds for its suspension or revocation; repealing ss. 504.21, 504.22, 504.23, 504.24, 504.25, 504.26, 504.27, 504.28, 504.29, 504.31, 504.32, 504.33, 504.34, 504.35, 504.36, F.S.; eliminating the Florida Organic Farming and Food Law; providing an effective date; repealing ss. 536.20, 536.21, 536.22, F.S., relating to timber and lumber; repealing s. 570.381, F.S., relating to Appaloosa racing; amending ss. 550.2625, 550.2633, F.S.; conforming cross-references; amending s. 570.07, F.S.; authorizing the department to conduct investigations of violations of laws relating to consumer protection; amending s. 503.071, F.S.; providing for the embargo, detainment, or destruction of food or food processing equipment of a frozen dessert manufacturer; amending s. 570.244, F.S.; clarifying powers and duties of the department relating to the development of agribusinesses; amending s. 570.249, F.S.; clarifying aquacultural crops eligible for Agricultural Economic Development Program disaster loans; revising loan application requirements; directing the department to establish an agribusiness market development grant program; amending s. 570.38, F.S.; increasing membership of the Animal Industry Technical Council; amending s. 580.031, F.S.; revising definitions; amending s. 580.051, F.S.; revising label requirements for feed; amending s. 580.065, F.S.; revising feed laboratory procedures; amending s. 580.091, F.S.; removing intent language regarding feed sampling and analysis; amending s. 580.112, F.S.; expanding prohibited acts; amending s. 581.211, F.S.; providing a penalty for violation of rules relating to plant industry; amending s. 585.145, F.S.; prescribing requirements with respect to veterinarians who may inspect animals for disease; amending s. 585.155, F.S.; revising vaccination requirements for calves; amending s. 589.19, F.S.; naming a state forest; amending s. 616.242, F.S.; providing additional exemptions from amusement ride safety standards; amending s. 828.22, F.S.; creating the "Humane Slaughter Act"; revising provisions relating to humane slaughter and livestock euthanasia; amending s. 828.23, F.S.; revising definitions; amending s. 828.24, F.S.; revising provisions relating to prohibited acts; amending s. 828.25, F.S.; revising provisions relating to administration of the act by the department; creating s. 828.251, F.S.; directing the department to make current technical information available to slaughterers; creating s. 828.252, F.S.; providing for humane treatment of nonambulatory animals; amending s. 828.26, F.S.; revising penalties; amending ss. 427.804, 559.921, F.S.; conforming cross-references; creating s. 604.60, F.S.; providing that certain agricultural growers or producers shall have a right to recover damages as a result of willful and knowing damage or destruction of specified agricultural products; providing considerations and limits in award of damages; providing for costs and attorney's fees; amending s. 810.09, F.S.; prohibiting trespass upon specified legally posted agricultural sites; providing a penalty; reenacting ss. 260.0125(5)(b) and 810.011(5)(b), F.S., to incorporate the amendment to s. 810.09, F.S., in references thereto; repealing s. 570.544(10) and (11), F.S., relating to authority of the Division of Consumer Services of the department to conduct investigations of violations of laws relating to consumer protection; creating s. 373.621, F.S.; providing consideration for certain applicants who implement water conservation practices; amending section 601.48, F.S.; eliminating provisions relating to inspection of processed citrus products for grade and subsequent grading and designation thereof; authorizing the Florida Department of Citrus or its successor, to collect dues, contributions, or any other financial payment upon request by and on behalf of any not-for-profit corporation; amending s. 232.246, F.S.; authorizing Agriscience Foundations I to count as a science credit; providing an effective date; abolishing specified authorities and councils advisory to the department; creating s. 570.085, F.S.; creating an agricultural water conservation program within the department; designating the official citrus archive of Florida; providing for severability; requiring the Department of Agriculture and Consumer Services to administer a residential citrus canker compensation program; providing for sources of funds; providing for homeowners to receive compensation for citrus trees removed on or after a specified date as part of a citrus canker eradication program; providing eligibility criteria for receiving compensation; specifying the amount of compensation provided under the program, subject to availability of funds; requiring that the department notify homeowners of the program and develop a dispute-resolution process; creating the "Rural and Family Lands Protection Act"; defining terms; creating s. 570.70, F.S.; providing legislative intent; creating s. 570.71, F.S.; providing for the purchase of rural-lands-protection easements by the Department of Agriculture and Consumer Services; providing criteria; providing for resource conservation agreements and agricultural protection agreements; prescribing allowable land uses; providing for an application process; providing for the sale of an easement; requiring the department to adopt rules; authorizing the use of specified funds; authorizing the removal of property from lists and maps; providing for the deposit of funds; directing the completion of a needs assessment and a report; amending s. 163.3177, F.S.; directing the department to authorize up to five local governments to designate rural land stewardship areas; requiring a written agreement; providing requirements for comprehensive plan amendments for such designations; providing that owners of land within such areas may convey development rights in return for the assignment of transferable rural land use credits; providing requirements with respect to such credits; specifying incentives that should be provided such landowners; requiring reports; providing intent; providing effective dates.

—was substituted for HB 1915 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

Representative(s) Greenstein offered the following:

(Amendment Bar Code: 491933)

Amendment 1 (with title amendment)—On page 11, line 8 through page 12, line 14
remove from the bill: all of said lines

and insert in lieu thereof:

Section 3. Subsections (1) and (8) of section 205.15, Florida Statutes, as amended by chapters 99-247, 2000-151, 2000-170, and 2000-197, Laws of Florida, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter shall be distributed as follows and shall be subject to the service charge imposed in s. 215.20(1), except that such service charge shall not be levied against any portion of taxes pledged to debt service on bonds to the extent that the amount of the service charge is required to pay any amounts relating to the bonds:

(1) Sixty-two and sixty-three hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(a) Amounts as shall be necessary to pay the debt service on, or fund debt service reserve funds, rebate obligations, or other amounts payable with respect to Preservation 2000 bonds issued pursuant to s. 375.051 and Florida Forever bonds issued pursuant to s. 215.618, shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund to be used for such purposes. The amount transferred to the Land Acquisition Trust Fund for such purposes shall not exceed $300 million in fiscal year 1999-2000 and thereafter for Preservation 2000 bonds and bonds issued to refund Preservation 2000 bonds, and $300 million in fiscal year 2000-2001 and thereafter for Florida Forever bonds. The annual amount transferred to the Land Acquisition Trust Fund for Florida Forever bonds shall not exceed $30 million in the first fiscal year in which bonds are issued. The limitation on the amount transferred shall be increased by an additional $30 million in each subsequent fiscal year, but shall not exceed a total of $300 million in any fiscal year for all bonds issued. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2030. Except for bonds issued to refund previously issued bonds, no series of bonds may be issued pursuant to this paragraph unless such bonds are approved and the debt service for the remainder of the fiscal year in

which the bonds are issued is specifically appropriated in the General Appropriations Act. For purposes of refunding Preservation 2000 bonds, amounts designated within this section for Preservation 2000 and Florida Forever bonds may be transferred between the two programs to the extent provided for in the documents authorizing the issuance of the bonds. The Preservation 2000 bonds and Florida Forever bonds shall be equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund pursuant to this section, except to the extent specifically provided otherwise by the documents authorizing the issuance of the bonds. *Notwithstanding the provisions of this subsection, for Fiscal Year 2000-2001 only, any remainder of funds above 100 percent of the current official forecast collected from the tax in this chapter shall be distributed to the Preservation 2000 Trust Fund created pursuant to s. 375.045, Florida Statutes.* No moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Save Our Coast revenue bonds.

(8) One-half of one percent of the remaining taxes collected under this chapter shall be paid into the State Treasury and divided equally to the credit of the Department of Environmental Protection Water Quality Assurance Trust Fund to address water quality impacts associated with nonagricultural nonpoint sources and to the credit of the Department of Agriculture and Consumer Services General Inspection Trust Fund to address water quality impacts associated with agricultural nonpoint sources, respectively. These funds shall be used for research, development, demonstration, and implementation of suitable best management practices or other measures used to achieve water quality standards in surface waters and water segments identified pursuant to ss. 303(d) of the Clean Water Act, Pub. L. No. 92-500, 33 U.S.C. ss. 1251 et seq. Implementation of best management practices and other measures may include cost-share grants, technical assistance, implementation tracking, and conservation leases or other agreements for water quality improvement. *The Department of Environmental Protection and the Department of Agriculture and Consumer Services may adopt rules governing the distribution of funds for implementation of best management practices.* The unobligated balance of funds received from the distribution of taxes collected under this chapter to address water quality impacts associated with nonagricultural nonpoint sources will be excluded when calculating the unobligated balance of the Water Quality Assurance Trust Fund as it relates to the determination of the applicable excise tax rate.

And the title is amended as follows:

On page 1, line 21,

insert: providing for the distribution of remainder funds for FY 2000-2001;

Rep. Greenstein moved the adoption of the amendment. Subsequently, **Amendment 1** was withdrawn.

On motion by Rep. Spratt, the rules were waived and CS for SB 1922 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 380

Yeas—115

The Chair	Bennett	Carassas	Flanagan
Alexander	Bense	Clarke	Frankel
Allen	Benson	Crow	Gannon
Andrews	Berfield	Cusack	Garcia
Argenziano	Betancourt	Davis	Gardiner
Arza	Bilirakis	Detert	Gelber
Attkisson	Bowen	Diaz de la Portilla	Gibson
Atwater	Brown	Diaz-Balart	Goodlette
Ausley	Brummer	Dockery	Gottlieb
Baker	Brutus	Farkas	Green
Barreiro	Bucher	Fasano	Greenstein
Baxley	Bullard	Feeney	Harper
Bean	Byrd	Fields	Harrell
Bendross-Mindingall	Cantens	Fiorentino	Harrington
Henriquez	Kyle	Murman	Seiler
Heyman	Lacasa	Needelman	Simmons
Hogan	Lee	Negron	Siplin
Holloway	Lerner	Paul	Slosberg
Jennings	Littlefield	Peterman	Smith
Johnson	Lynn	Pickens	Sobel
Jordan	Machek	Prieguez	Sorensen
Joyner	Mahon	Rich	Spratt
Justice	Mayfield	Richardson	Stansel
Kallinger	Maygarden	Ritter	Trovillion
Kendrick	McGriff	Romeo	Wallace
Kilmer	Meadows	Ross	Waters
Kosmas	Mealor	Rubio	Weissman
Kottkamp	Melvin	Russell	Wishner
Kravitz	Miller	Ryan	

Nays—3

Haridopolos	Hart	Mack

Votes after roll call:
Yeas—Wiles, Wilson
Yeas to Nays—Baker, Kyle

So the bill passed and was immediately certified to the Senate.

Consideration of **CS/HB 1819** was temporarily postponed under Rule 11.10.

HB 159 was taken up. On motion by Rep. Rubio, the rules were waived and—

CS for SB 1568—A bill to be entitled An act relating to health care service programs; amending s. 641.51, F.S.; requiring that only certain physicians licensed in this state may render adverse determinations for health maintenance organizations and prepaid health clinics; clarifying the authority of the Board of Medicine and the Board of Osteopathic Medicine; providing an effective date.

—was substituted for HB 159 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Rubio, the rules were waived and CS for SB 1568 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 381

Yeas—116

The Chair	Byrd	Haridopolos	Machek
Alexander	Cantens	Harper	Mack
Allen	Carassas	Harrell	Mahon
Andrews	Clarke	Harrington	Mayfield
Argenziano	Crow	Hart	Maygarden
Arza	Cusack	Henriquez	McGriff
Attkisson	Davis	Heyman	Meadows
Atwater	Detert	Hogan	Mealor
Ausley	Diaz de la Portilla	Holloway	Melvin
Baker	Diaz-Balart	Jennings	Miller
Barreiro	Dockery	Johnson	Murman
Baxley	Farkas	Jordan	Needelman
Bean	Fasano	Justice	Negron
Bendross-Mindingall	Feeney	Kallinger	Paul
Bennett	Fiorentino	Kendrick	Peterman
Bense	Flanagan	Kilmer	Pickens
Benson	Frankel	Kosmas	Prieguez
Berfield	Garcia	Kottkamp	Rich
Betancourt	Gardiner	Kravitz	Richardson
Bilirakis	Gelber	Kyle	Ritter
Bowen	Gibson	Lacasa	Romeo
Brown	Goodlette	Lee	Ross
Brummer	Gottlieb	Lerner	Rubio
Brutus	Green	Littlefield	Russell
Bucher	Greenstein	Lynn	Ryan

Seiler	Smith	Stansel	Weissman
Simmons	Sobel	Trovillion	Wiles
Siplin	Sorensen	Wallace	Wilson
Slosberg	Spratt	Waters	Wishner

Nays—3

Bullard	Gannon	Joyner

Votes after roll call:
Yeas—Fields
Nays to Yeas—Bullard

So the bill passed and was immediately certified to the Senate.

CS for SB 684—A bill to be entitled An act relating to organ transplantation; providing for the Agency for Health Care Administration to create the Organ Transplant Task Force to study organ transplantation programs; requiring the task force to study and make recommendations on the necessity of the issuance of certificates of need for such programs and funding for organ transplantation; providing a date for the task force to report to the Governor and the Legislature; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 382

Yeas—118

The Chair	Crow	Hogan	Needelman
Alexander	Cusack	Holloway	Negron
Allen	Davis	Jennings	Peterman
Andrews	Detert	Johnson	Pickens
Argenziano	Diaz de la Portilla	Jordan	Prieguez
Arza	Diaz-Balart	Joyner	Rich
Attkisson	Dockery	Justice	Richardson
Atwater	Farkas	Kallinger	Ritter
Ausley	Fasano	Kendrick	Romeo
Baker	Feeney	Kilmer	Ross
Barreiro	Fields	Kosmas	Rubio
Baxley	Fiorentino	Kottkamp	Russell
Bean	Flanagan	Kravitz	Ryan
Bendross-Mindingall	Frankel	Kyle	Seiler
Bennett	Gannon	Lacasa	Siplin
Bense	Garcia	Lee	Slosberg
Benson	Gardiner	Lerner	Smith
Berfield	Gelber	Littlefield	Sobel
Betancourt	Gibson	Lynn	Sorensen
Bilirakis	Goodlette	Machek	Spratt
Bowen	Gottlieb	Mack	Stansel
Brown	Green	Mahon	Trovillion
Brummer	Greenstein	Mayfield	Wallace
Brutus	Haridopolos	Maygarden	Waters
Bucher	Harper	McGriff	Weissman
Bullard	Harrell	Meadows	Wiles
Byrd	Harrington	Mealor	Wilson
Cantens	Hart	Melvin	Wishner
Carassas	Henriquez	Miller	
Clarke	Heyman	Murman	

Nays—None

So the bill passed and was immediately certified to the Senate.

CS for CS for SB 870—A bill to be entitled An act relating to construction; amending s. 218.72, F.S.; redefining the terms "proper invoice," "local government entity," "purchase," and "construction services" and defining the terms "payment request" and "agent" for the purpose of the Florida Prompt Payment Act; amending s. 218.73, F.S.; providing for timely payment for nonconstruction services; amending s. 218.735, F.S.; revising provisions with respect to timely payment for purchases of construction services; providing for disputed payment requests; providing for payment of undisputed amounts; amending s. 218.74, F.S.; revising provisions with respect to procedures for calculation of payment due dates; amending s. 218.75, F.S.; revising provisions with respect to mandatory interest; amending s. 218.76, F.S.; revising provisions with respect to improper invoices and resolution of disputes; providing for the recovery of court costs and attorney's fees under certain circumstances; providing an effective date.

—was read the third time by title. On passage, the vote was:

Session Vote Sequence: 383

Yeas—119

The Chair	Cusack	Holloway	Negron
Alexander	Davis	Jennings	Paul
Allen	Detert	Johnson	Peterman
Andrews	Diaz de la Portilla	Jordan	Pickens
Argenziano	Diaz-Balart	Joyner	Prieguez
Arza	Dockery	Justice	Rich
Attkisson	Farkas	Kallinger	Richardson
Atwater	Fasano	Kendrick	Ritter
Ausley	Feeney	Kilmer	Romeo
Baker	Fields	Kosmas	Ross
Barreiro	Fiorentino	Kottkamp	Rubio
Baxley	Flanagan	Kravitz	Russell
Bean	Frankel	Kyle	Ryan
Bendross-Mindingall	Gannon	Lacasa	Seiler
Bennett	Garcia	Lee	Simmons
Benson	Gardiner	Lerner	Siplin
Berfield	Gelber	Littlefield	Slosberg
Betancourt	Gibson	Lynn	Smith
Bilirakis	Goodlette	Machek	Sobel
Bowen	Gottlieb	Mack	Sorensen
Brown	Green	Mahon	Spratt
Brummer	Greenstein	Mayfield	Stansel
Brutus	Haridopolos	Maygarden	Trovillion
Bucher	Harper	McGriff	Wallace
Bullard	Harrell	Meadows	Waters
Byrd	Harrington	Mealor	Weissman
Cantens	Hart	Melvin	Wiles
Carassas	Henriquez	Miller	Wilson
Clarke	Heyman	Murman	Wishner
Crow	Hogan	Needelman	

Nays—None

So the bill passed and was immediately certified to the Senate.

Consideration of **CS for SB 972** was temporarily postponed under Rule 11.10.

CS/CS/HB 1121—A bill to be entitled An act relating to driver licenses; amending s. 322.02, F.S.; providing legislative intent with regard to the delivery of driver license services; authorizing county tax collectors to serve as exclusive agents of the Department of Highway Safety and Motor Vehicles; amending s. 322.135, F.S.; providing an application process for county tax collectors to serve as exclusive agents; creating the Cost Determination and Allocation Task Force; establishing the duties and responsibilities of the task force; providing for the development of transition plans to transfer certain responsibilities to tax collectors; providing an effective date.

—was read the third time by title.

Representative(s) Byrd offered the following:

(Amendment Bar Code: 442037)

Amendment 1 (with title amendment)—On page 1, line 18,

insert:

Section 1. Section 24 of chapter 2000-237, Laws of Florida, is amended to read:

Section 24. This act shall take effect upon becoming a law, except for section 8 of this act, which shall take effect July 1, *2003* ~~2001~~.

And the title is amended as follows:

On page 1, line 2,
remove from the title of the bill: driver licenses;

and insert in lieu thereof: county funds; amending s. 24 of ch. 2000-237, Laws of Florida, to revise the effective date thereof;

Rep. Murman moved the adoption of the amendment, which was adopted by the required two-thirds vote.

The question recurred on the passage of CS/CS/HB 1121. The vote was:

Session Vote Sequence: 384

Yeas—117

Alexander	Davis	Jennings	Peterman
Allen	Detert	Johnson	Pickens
Andrews	Diaz de la Portilla	Jordan	Prieguez
Argenziano	Diaz-Balart	Joyner	Rich
Arza	Dockery	Justice	Richardson
Attkisson	Farkas	Kallinger	Ritter
Atwater	Fasano	Kendrick	Romeo
Ausley	Feeney	Kilmer	Ross
Baker	Fields	Kosmas	Rubio
Barreiro	Fiorentino	Kottkamp	Russell
Baxley	Flanagan	Kravitz	Ryan
Bean	Frankel	Kyle	Seiler
Bendross-Mindingall	Gannon	Lacasa	Simmons
Bennett	Garcia	Lee	Siplin
Bense	Gardiner	Lerner	Slosberg
Benson	Gelber	Littlefield	Smith
Berfield	Gibson	Machek	Sobel
Betancourt	Goodlette	Mack	Sorensen
Bowen	Gottlieb	Mahon	Spratt
Brown	Green	Mayfield	Stansel
Brummer	Greenstein	Maygarden	Trovillion
Brutus	Haridopolos	McGriff	Wallace
Bucher	Harper	Meadows	Waters
Bullard	Harrell	Mealor	Weissman
Byrd	Harrington	Melvin	Wiles
Cantens	Hart	Miller	Wilson
Carassas	Henriquez	Murman	Wishner
Clarke	Heyman	Needelman	
Crow	Hogan	Negron	
Cusack	Holloway	Paul	

Nays—None

So the bill passed, as amended, and was immediately certified to the Senate after engrossment.

THE SPEAKER IN THE CHAIR

CS/HB 1889 was taken up. On motion by Rep. Ritter, the rules were waived and—

CS for CS for SB 1878—A bill to be entitled An act relating to tax on communications services; creating s. 202.105, F.S.; providing legislative findings and intent with respect to the Communications Services Tax Simplification Law; amending s. 202.11, F.S.; revising and providing definitions; amending s. 202.12, F.S.; specifying the rates for the state tax; revising provisions relating to application of the tax; providing for application of the tax rate to private communications services and mobile communications services; providing the initial method for determining the sales price of private communications services and a revised method effective January 1, 2004; relieving service providers of certain liability; revising provisions relating to direct-pay permits; creating s. 202.155, F.S.; providing special rules for mobile communications services; providing duties of home service providers and the Department of Revenue in determining a customer's place of primary use and determining the correct taxing jurisdiction; relieving service providers of certain liability; providing requirements with respect to identifying and separately stating the sales price of mobile communications services not subject to the taxes administered under ch. 202, F.S.; amending s. 202.16, F.S.; revising provisions relating to responsibility for payment of taxes and tax amounts and brackets; amending s. 202.17, F.S.; specifying that registration as a dealer of communications services does not constitute registration for purposes of placing and maintaining communications facilities in municipal or county rights-of-way; removing the registration fee for such dealers; revising provisions relating to resale certificates; amending s. 202.18, F.S.; revising provisions relating to distribution of a portion of the proceeds of the tax on direct-to-home satellite service and to distribution of local communications services taxes and adjustment of such distribution; amending s. 202.19, F.S.; revising provisions which authorize imposition of local communications services taxes and provide for use of revenues and certain credits; specifying the maximum rates of such taxes; providing the initial method for determining the sales price of private communications services for local communications services taxes and for the discretionary sales surtax under s. 212.055, F.S., that is imposed as a local communications services tax, and providing a revised method effective January 1, 2004; relieving service providers of certain liabilities; revising requirements relating to the direct-pay permit required to qualify for the limitation on local communications services taxes on interstate communications services; providing for application of local communications services taxes to mobile communications services; amending s. 202.20, F.S.; specifying the local communications services tax conversion rates; revising requirements with respect to adjustment by a local government of its tax rate when tax revenues are less than received from replaced revenue sources; requiring adjustment of the tax rate if revenues received for a specified period exceed a specified threshold; authorizing local governments to increase the tax rate established by the Revenue Estimating Conference and approved by the Legislature to the maximum tax rate so established and approved; amending s. 202.21, F.S.; conforming provisions; amending s. 202.22, F.S., relating to determination of local tax situs for a local communications services tax; revising requirements relating to use of enhanced zip codes; revising requirements relating to certification or recertification of a database by the department; specifying effect when certain applications for certification are not approved or denied within the required time period; revising provisions relating to a dealer's duty to update a database and to the amount of dealer's credit allowed when an alternative method of assigning service addresses is used; amending s. 202.23, F.S.; providing requirements for refunds when excess communications services tax has been paid; creating s. 202.231, F.S.; providing requirements for provision of information by the department to local taxing jurisdictions; amending s. 202.24, F.S., relating to limitations on local taxes and fees imposed on dealers of communications services; deleting provisions relating to legislative review; repealing s. 202.26(3)(i), F.S., which provides for adoption of rules by the department with respect to collection of information no longer required; amending s. 202.27, F.S.; deleting provisions which allow certain dealers making sales in more than one location to file a single return; amending s. 202.28, F.S.; including persons collecting the gross receipts tax in provisions relating to the dealer's credit; amending s. 202.37, F.S.; providing requirements for audits conducted with respect to local communications services taxes; providing that certain persons or entities may provide evidence to the department regarding failure to report taxable sales and providing authority of the department with respect thereto; creating s. 202.38, F.S.; providing for credits or refunds under ch. 202, F.S., for certain bad debts or adjustments with respect to taxes under ch. 212, F.S., or ch. 166, F.S., billed prior to October 1, 2001, and no longer subject to tax; creating s. 202.381, F.S.; providing requirements with respect to implementation of ch. 202, F.S., and ch. 2000-260, Laws of Florida, and transition from the previous tax structure; amending s. 203.01, F.S.; specifying the rate of the gross receipts tax on communications services; amending s. 212.031, F.S.; conforming provisions; amending s. 212.054, F.S.; clarifying that a discretionary sales surtax applies to transactions taxed under ch. 202, F.S.; amending s. 212.20, F.S.; removing provisions relating to deposit of certain proceeds under ch. 212, F.S., in the Mail Order Sales Tax Clearing Trust Fund; amending ss. 11.45, 218.65, and 288.1169, F.S.; correcting

references; amending s. 212.202, F.S.; renaming the Mail Order Sales Tax Clearing Trust Fund as the Communications Services Tax Clearing Trust Fund; amending s. 337.401, F.S.; revising dates for notice of election by municipalities and counties regarding imposition of permit fees to the department; providing that a municipality or county that elects not to impose permit fees on communications services providers may increase its local tax rate by resolution; requiring notice to the department; prescribing regulations governing the amounts that may be imposed by municipalities and counties against certain persons or entities in connection with the placement or maintenance of communications facilities in municipal or county roads or rights-of-way; repealing s. 337.401(3)(f) and (g), F.S., relating to the authority of municipalities and counties to request in-kind requirements from cable service providers and to negotiate cable service franchises, and revising and relocating such provisions under that section; providing relationship of provisions relating to regulation of placement or maintenance of communications facilities in public roads or rights-of-way by counties or municipalities to zoning or land use authority; providing status of registration under such provisions; authorizing municipalities and counties to change their election regarding imposition of permit fees and providing for adjustment of tax rates; providing notice requirements; revising definitions; specifying continued application of s. 166.234, F.S., relating to administration and rights and remedies, to municipal public service taxes on telecommunications services imposed prior to October 1, 2001; providing for payment of franchise fees by cable or telecommunications service providers with respect to services provided prior to October 1, 2001; providing for severability; repealing s. 52 of ch. 2000-260, Laws of Florida, which provides for a legislative study during the 2001 session; repealing s. 58(1) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of those administrative sections of ch. 202, F.S., which have taken effect; repealing s. 58(2) of ch. 2000-260, Laws of Florida, which provides for the June 30, 2001, repeal of the following provisions prior to their October 1, 2001, effective date: the remainder of ch. 202, F.S., which provides for the taxation of the sale of communications services; other statutory amendments which provide related administrative provisions; provisions which remove levy of the municipal public service tax on telecommunication services; provisions which provide for a gross receipts tax on communications services to be applied pursuant to ch. 202, F.S.; provisions which remove the imposition of tax under ch. 212, F.S., on telecommunication service; provisions relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees; and provisions relating to the application of amendments made by ch. 2000-260, Laws of Florida; repealing s. 59 of ch. 2000-260, Laws of Florida, which, effective June 30, 2001, amends s. 337.401, F.S., relating to the authority of counties and municipalities to regulate the placement of telecommunications facilities in roads and rights-of-way and to impose permit fees and franchise fees, to remove amendments made by ch. 2000-260, Laws of Florida, which took effect January 1, 2001; providing effective dates.

—was substituted for CS/HB 1889 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

REPRESENTATIVE MAYGARDEN IN THE CHAIR

On motion by Rep. Ritter, the rules were waived and CS for CS for SB 1878 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 385

Yeas—99

Alexander	Baker	Bilirakis	Byrd
Allen	Barreiro	Bowen	Cantens
Andrews	Bendross-Mindingall	Brown	Carassas
Arza	Bennett	Brummer	Clarke
Attkisson	Benson	Brutus	Crow
Atwater	Berfield	Bucher	Cusack
Ausley	Betancourt	Bullard	Davis
Detert	Haridopolos	Lacasa	Romeo
Diaz de la Portilla	Harper	Lee	Ross
Diaz-Balart	Harrell	Lerner	Ryan
Dockery	Henriquez	Lynn	Seiler
Farkas	Heyman	Machek	Simmons
Fasano	Hogan	Mahon	Siplin
Feeney	Holloway	Mayfield	Slosberg
Fields	Jennings	McGriff	Smith
Fiorentino	Johnson	Meadows	Sobel
Flanagan	Jordan	Mealor	Sorensen
Frankel	Joyner	Melvin	Stansel
Gannon	Justice	Murman	Wallace
Garcia	Kallinger	Negron	Waters
Gelber	Kendrick	Peterman	Weissman
Gibson	Kilmer	Prieguez	Wiles
Gottlieb	Kosmas	Rich	Wilson
Green	Kottkamp	Richardson	Wishner
Greenstein	Kyle	Ritter	

Nays—15

Ball	Gardiner	Kravitz	Paul
Baxley	Goodlette	Mack	Pickens
Bean	Harrington	Miller	Russell
Bense	Hart	Needelman	

Votes after roll call:
Yeas to Nays—Kilmer, Kyle

So the bill passed and was immediately certified to the Senate.

CS/HB 1891 was taken up. On motion by Rep. Ritter, the rules were waived and—

CS for SB 1836—A bill to be entitled An act relating to public records; amending s. 213.053, F.S.; providing an exemption from public records requirements for information contained in specified documents received by the Department of Revenue in connection with ch. 202, F.S., the Communications Services Tax Simplification Law; authorizing the department to provide certain information relative to said chapter to local governments imposing a local communications services tax; providing for application of confidentiality and penalty provisions to such local governments; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was substituted for CS/HB 1891 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Ritter, the rules were waived and CS for SB 1836 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 386

Yeas—118

The Chair	Berfield	Diaz-Balart	Haridopolos
Alexander	Betancourt	Dockery	Harper
Allen	Bilirakis	Farkas	Harrell
Andrews	Bowen	Fasano	Harrington
Argenziano	Brown	Feeney	Hart
Arza	Brummer	Fields	Henriquez
Attkisson	Brutus	Fiorentino	Heyman
Atwater	Bucher	Flanagan	Hogan
Ausley	Bullard	Frankel	Holloway
Baker	Byrd	Gannon	Jennings
Ball	Cantens	Garcia	Johnson
Barreiro	Carassas	Gardiner	Jordan
Baxley	Clarke	Gelber	Joyner
Bean	Crow	Gibson	Justice
Bendross-Mindingall	Cusack	Goodlette	Kallinger
Bennett	Davis	Gottlieb	Kendrick
Bense	Detert	Green	Kilmer
Benson	Diaz de la Portilla	Greenstein	Kosmas

Kottkamp	Meadows	Richardson	Sorensen
Kravitz	Mealor	Ritter	Spratt
Lacasa	Melvin	Romeo	Stansel
Lee	Miller	Ross	Trovillion
Lerner	Murman	Russell	Wallace
Littlefield	Needelman	Ryan	Waters
Lynn	Negron	Seiler	Weissman
Machek	Paul	Simmons	Wiles
Mack	Peterman	Siplin	Wilson
Mahon	Pickens	Slosberg	Wishner
Mayfield	Prieguez	Smith	
McGriff	Rich	Sobel	

Nays—None

Votes after roll call:
Yeas—Kyle

So the bill passed and was immediately certified to the Senate.

CS/HB 1893 was taken up. On motion by Rep. Ritter, the rules were waived and—

CS for SB 1540—A bill to be entitled An act relating to trust funds; creating s. 202.193, F.S.; creating the Local Communications Services Tax Clearing Trust Fund within the Department of Revenue; providing for sources of moneys and purposes; providing for annual carryforward of fund balances; providing that the trust fund is exempt from constitutional termination; providing a contingent effective date.

—was substituted for CS/HB 1893 and read the second time by title. Under Rule 5.15, the House bill was laid on the table.

On motion by Rep. Ritter, the rules were waived and CS for SB 1540 was read the third time by title. On passage, the vote was:

Session Vote Sequence: 387

Yeas—116

Allen	Crow	Holloway	Negron
Andrews	Cusack	Jennings	Paul
Argenziano	Davis	Johnson	Peterman
Arza	Detert	Jordan	Pickens
Attkisson	Diaz de la Portilla	Joyner	Prieguez
Atwater	Diaz-Balart	Justice	Rich
Ausley	Dockery	Kallinger	Richardson
Baker	Farkas	Kendrick	Ritter
Ball	Fasano	Kilmer	Romeo
Barreiro	Feeney	Kosmas	Ross
Baxley	Fields	Kottkamp	Rubio
Bean	Flanagan	Kravitz	Russell
Bendross-Mindingall	Frankel	Kyle	Ryan
Bennett	Gannon	Lacasa	Seiler
Bense	Garcia	Lee	Simmons
Benson	Gardiner	Lerner	Siplin
Berfield	Gelber	Littlefield	Slosberg
Betancourt	Gibson	Lynn	Smith
Bilirakis	Gottlieb	Machek	Sobel
Bowen	Green	Mack	Sorensen
Brown	Greenstein	Mahon	Spratt
Brummer	Haridopolos	Mayfield	Stansel
Brutus	Harper	McGriff	Trovillion
Bucher	Harrell	Meadows	Wallace
Bullard	Harrington	Mealor	Waters
Byrd	Hart	Melvin	Weissman
Cantens	Henriquez	Miller	Wiles
Carassas	Heyman	Murman	Wilson
Clarke	Hogan	Needelman	Wishner

Nays—None

Votes after roll call:
Yeas—Fiorentino

So the bill passed by the required constitutional three-fifths vote of the membership and was immediately certified to the Senate.

THE SPEAKER IN THE CHAIR

On motion by Rep. Crow, consideration of **HB 25** was temporarily postponed under Rule 11.10.

On motion by Rep. Byrd, the rules were waived and the House moved to the order of—

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed CS for SB 1692, as amended, and requests the concurrence of the House.

Faye W. Blanton, Secretary

By the Committee on Regulated Industries and Senators Wasserman Schultz and Crist—

CS for SB 1692—A bill to be entitled An act relating to pari-mutuel wagering; providing a title; requiring dogracing permitholders to provide a greyhound-adoption booth at each dogracing facility in the state; requiring that the booth be operated by certain qualified persons on weekends; requiring that information concerning the adoption of a greyhound be made available to the public at the facility; requiring the permitholder to provide adoption information in racing programs and to identify greyhounds that will become available for adoption; authorizing the permitholder to hold an additional charity day that is designated as "Greyhound Adopt-A-Pet Day"; requiring that profits derived from the charity day be used to fund activities promoting the adoption of greyhounds; authorizing the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to adopt rules; providing penalties; amending s. 550.1647, F.S., relating to unclaimed tickets and breaks with respect to greyhound racing; defining the term "bona fide organization that promotes or encourages the adoption of greyhounds"; providing an effective date.

—was read the first time by title. On motion by Rep. Fasano, the rules were waived and the bill was read the second time by title.

Representative(s) Ryan offered the following:

(Amendment Bar Code: 365109)

Amendment 1 (with title amendment)—
Remove from the bill: Everything after the enacting clause

and insert in lieu thereof:

Section 1. Paragraph (4) of section 550.5251, Florida Statutes, is amended to read:

550.5251 Florida thoroughbred racing; certain permits; operating days.—

(4) A thoroughbred racing permitholder may not begin any race later than 7 p.m. ~~However, a~~ *A*ny thoroughbred permitholder in a county in which the authority for cardrooms has been approved by the board of county commissioners may ~~elect not to~~ operate a cardroom *and,* when conducting live races during its current race meet*, may* ~~and instead to~~ receive and rebroadcast out-of-state races after the hour of 7 p.m. on any day during which the permitholder conducts live races. ~~However, such permitholder may not engage in both operating a cardroom and receiving or rebroadcasting out-of-state races after 7 p.m. Permitholders shall be required to elect between either operating a cardroom or engaging in simulcasting after 7 p.m. at the time of submitting its application for its annual license pursuant to this section.~~

Section 2. *Greyhound adoptions.*—

(1) Each dogracing permitholder operating a dogracing facility in this state shall provide for a greyhound-adoption booth to be located at

the facility. The greyhound-adoption booth must be operated on weekends by personnel or volunteers from a bon fide organization that promotes or encourages the adoption of greyhounds pursuant to s. 550.1647. As used in this section, the term "weekend" includes the hours during which live greyhound racing is conducted on Friday, Saturday, or Sunday. Information pamphlets and application forms shall be provided to the public upon request. In addition, the kennel operator or owner shall notify the permitholder that a greyhound is available for adoption and the permitholder shall provide information concerning the adoption of a greyhound in each race program and shall post adoption information at conspicuous locations throughout the dogracing facility. Any greyhound that is participating in a race and that will be available for future adoption must be noted in the race program. The permitholder shall allow greyhounds to be walked through the track facility to publicize the greyhound-adoption program.

(2) In addition to the charity days authorized under section 550.0351, Florida Statutes, a greyhound permitholder may fund the greyhound-adoption program by holding a charity racing day designated as "Greyhound Adopt-A-Pet Day." All profits derived from the operation of the charity day must be placed into a fund used to support activities at the racing facility which promote the adoption of greyhounds. The division may adopt rules for administering the fund. Proceeds from the charity day authorized in this subsection may not be used as a source of funds for the purposes set forth in s. 550.1647.

(3)(a) Upon a violation of this section by a permitholder or licensee, the division may impose a penalty as set forth in s. 550.0251(10) and require the permitholder to take corrective action.

(3)(b) A penalty imposed under 550.0201(10) does not exclude a prosecution for cruelty to animals or for any other criminal act.

Section 3. Section 550.1647, Florida Statutes, is amended to read.

550.1647 Greyhound permitholders; unclaimed tickets; breaks.—All money or other property represented by any unclaimed, uncashed, or abandoned pari-mutuel ticket which has remained in the custody of or under the control of any permitholder authorized to conduct greyhound racing pari-mutuel pools in this state for a period of 1 year after the date the pari-mutuel ticket was issued, if the rightful owner or owners thereof have made no claim or demand for such money or other property within that period of time, shall, with respect to live races conducted by the permitholder, be remitted to the state pursuant to s. 550.1645; however, such permitholder shall be entitled to a credit in each state fiscal year in an amount equal to the actual amount remitted in the prior state fiscal year which may be applied against any taxes imposed pursuant to this chapter. In addition, each permitholder shall pay, from any source, including the proceeds from performances conducted pursuant to s. 550.0351, an amount not less than 10 percent of the amount of the credit provided by this section to any bona fide organization that promotes or encourages the adoption of greyhounds. *As used in this section, the term "bona fide organization that promotes or encourages the adoption of greyhounds" means any organization that provides evidence of compliance with chapter 496 and possesses a valid exemption from federal taxation issued by the Internal Revenue Service. Such bona fide organization, as a condition of adoption, must provide sterilization of greyhounds by a licensed veterinarian before relinquishing custody of the greyhound to the adoptor. The fee for sterilization may be included in the cost of adoption.*

Section 4. Paragraph (a) of subsection (2), paragraphs (b) and (d) of subsection (5), subsections (7) and (8), and paragraphs (a) and (d) of subsection (13) of section 849.086, Florida Statutes, are amended to read:

849.086 Cardrooms authorized.—

(2) DEFINITIONS.—As used in this section:

(a) *"Authorized game* ~~"Authorized games"~~ means *a game or series of games of poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg* ~~only those games authorized by s.849.085(2)(a) and~~which *is* ~~are~~ played in a nonbanking manner.

(5) LICENSE REQUIRED; APPLICATION; FEES.—No person may operate a cardroom in this state unless such person holds a valid cardroom license issued pursuant to this section.

(b) After the initial cardroom license is granted, the application for the annual license renewal shall be made in conjunction with the applicant's annual application for its pari-mutuel license. *If a permitholder operated a cardroom during the previous fiscal year and fails to include a renewal request for the operation of the cardroom in its annual application for license renewal, the permitholder may amend its annual application to include operation of the cardroom.* In order for a cardroom license to be renewed the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto. *If the application is for a harness permitholder cardroom, the applicant must have requested authorization to conduct a minimum of 140 live performances during the state fiscal year immediately prior thereto. If more than one permitholder is operating at a facility, each permitholder must have applied for a license to conduct a full schedule of live racing or games.*

(d) The annual cardroom license fee *for each facility* shall be $1,000 for the first table and $500 for each additional table to be operated at the cardroom. This license fee shall be deposited by the division with the Treasurer to the credit of the Pari-mutuel Wagering Trust Fund.

(7) CONDITIONS FOR OPERATING A CARDROOM.—

(a) A cardroom may ~~only~~ be operated *only* at the location specified on the cardroom license issued by the division, and such location may only be the location at which the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to such permitholder's valid pari-mutuel permit *or as otherwise authorized by law* ~~and current license~~.

(b) A cardroom may be operated at the facility only when the facility is authorized to accept wagers on pari-mutuel events ~~during its authorized meet~~. A cardroom may begin operations within 2 hours prior to the post time of the first pari-mutuel event ~~conducted live at the pari-mutuel facility~~ on which wagers are accepted *by the facility* and must cease operations *by 2 a.m. on the following day* ~~within 2 hours after the conclusion of the last pari-mutuel event conducted live at the pari-mutuel facility on which wagers are accepted~~.

(c) A cardroom operator must at all times employ and provide a nonplaying dealer for each table on which authorized card games which traditionally utilize a dealer are conducted at the cardroom. Such dealers may not have any participatory interest in any game other than the dealing of cards and may not have an interest in the outcome of the game. The providing of such dealers by a licensee shall not be construed as constituting the conducting of a banking game by the cardroom operator.

(d) A facility that operates a cardroom may award giveaways or prizes to players who hold combinations of cards specified by the cardroom operator.

(e) ~~(d)~~ Each cardroom operator shall conspicuously post upon the premises of the cardroom a notice which contains a copy of the cardroom license; a list of authorized games offered by the cardroom; the wagering limits imposed by the house, if any; any additional house rules regarding operation of the cardroom or the playing of any game; and all costs to players to participate, including any rake by the house. In addition, each cardroom operator shall post at each table a notice of the minimum and maximum bets authorized at such table and the fee for participation in the game conducted.

(f) ~~(e)~~ The cardroom facility shall be subject to inspection by the division or any law enforcement agency during the licensee's regular business hours. The inspection will specifically encompass the permitholder internal control procedures approved by the division.

(g) ~~(f)~~ A cardroom operator may refuse entry to or refuse to allow to play any person who is objectionable, undesirable, or disruptive, but

such refusal shall not be on the basis of race, creed, color, religion, sex, national origin, marital status, physical handicap, or age, except as provided in this section.

(8) METHOD OF WAGERS; LIMITATION.—

(a) No wagering may be conducted using money or other negotiable currency. Games may only be played utilizing a wagering system whereby all players' money is first converted by the house to tokens or chips which shall be used for wagering only at that specific cardroom.

(b) *The cardroom operator may limit the amount wagered in any game or series of games, but the maximum bet* ~~The winnings of any player in a single round, hand, or game~~ may not exceed *$2* ~~$10~~ in value. *There may not be more than three raises in any round of betting.* The fee charged by the cardroom for participation in the game shall not be included in the calculation of the limitation on the *bet amount* ~~pot size~~ provided in this paragraph.

(13) TAXES AND OTHER PAYMENTS.—

(a) Each cardroom operator shall pay a tax to the state of *2* ~~10~~ percent of the cardroom operation's monthly gross receipts.

(d) Each greyhound and jai alai permitholder *that* ~~which~~ operates a cardroom facility shall *use* ~~utilize~~ at least *10* 4 percent of such permitholder's cardroom monthly gross receipts to supplement greyhound purses or jai alai prize money, respectively, during the permitholder's next ensuing pari-mutuel meet. Each thoroughbred and harness horse racing permitholder *that* ~~which~~ operates cardroom facility shall *use* ~~utilize~~ at least 50 percent of such permitholder's cardroom monthly net proceeds as follows: 47 percent to supplement purses and 3 percent to supplement breeders' awards during the permitholder's next ensuing racing meet.

Section 5. Subsection (2) of section 550.0351, Florida Statutes, is amended to read:

550.0351 Charity racing days.—

(2) The proceeds of charity performances shall be paid to qualified beneficiaries selected by the permitholders from an authorized list of charities on file with the division. Eligible charities include *the Racing Scholarship Trust Fund, the Historical Resources Operating Trust Fund, major state and private institutions of higher learning in Florida, Florida community colleges, and* any charity that provides evidence of compliance with the provisions of chapter 496 and evidence of possession of a valid exemption from federal taxation issued by the Internal Revenue Service. *However, all proceeds donated to a charity under the provisions of this statute must be used to directly fund programs and operations within the state of Florida and may not be used to fund, directly or indirectly, any program or operation outside of the state of Florida.* ~~In addition, the authorized list must include the Racing Scholarship Trust Fund, the Historical Resources Operating Trust Fund, major state and private institutions of higher learning, and Florida community colleges.~~

Section 6. This act shall take effect July 1, 2001.

And the title is amended as follows:
remove from the title of the bill: the entire title

and insert in lieu thereof: A bill to be entitled
An act relating to pari-mutuel wagering; requiring dogracing permitholders to provide a greyhound-adoption booth at each dogracing facility in the state; requiring that information concerning the adoption of a greyhound be made available to the public at the facility; requiring the permitholder to provide adoption information in racing programs and to identify greyhounds that will become available for adoption; authorizing the permitholder to hold an additional charity day that is designated as "Greyhound Adopt-A-Pet Day"; requiring that profits derived from the charity day be used to fund activities promoting the adoption of greyhounds; authorizing the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to adopt rules; providing penalties; amending s. 550.1647, F.S.; relating to unclaimed tickets and breaks with respect to greyhound racing; defining the term "bona fide organization that promotes or encourages the adoption of greyhounds"; amending s. 550.5251, F.S.; revising requirements for the operation of cardrooms by thoroughbred racing permitholders; amending s. 849.086, F.S.; revising requirements for the operation of cardrooms; redefining the term "authorized games"; authorizing a permitholder to amend an application for license renewal; providing requirements for licensure of certain permitholders; providing for licensing fees; revision the conditions for operating a cardroom; authorizing cardrooms to award prizes; limiting the amount of a bet; revising the rate of the gross receipts tax on admissions; revising the percentage of the tax which must be used for specified purposes; amending s. 550.0351, F.S.; requiring charity day proceeds to be used to fund programs and operations within the state of Florida; providing an effective date.

Rep. Ryan moved the adoption of the amendment.

Representative(s) Garcia offered the following:

(Amendment Bar Code: 105891)

Amendment 1 to Amendment 1 (with title amendment)—On page 1, between lines 16 and 17, of the amendment

insert:

Section 1. *There is hereby created a committee of the Legislature to study the condition of thoroughbred horse racing in South Florida within Miami-Dade and Broward Counties. Such committee shall be composed of three members of the House of Representatives, appointed by the Speaker of the House of Representatives, and three members of the Senate appointed by the President of the Senate. The committee shall appoint a chair and cochairs from its members and shall have the use of and support of the staffs of either chamber as the Speaker and the President shall determine. The committee shall hold hearings and hear testimony on the condition of South Florida thoroughbred racing in those counties and shall hear evidence regarding it. The committee shall issue a report to the Speaker and the President on or before June 15, 2002. The committee shall consider the historical, cultural, and economic importance of the industry to the state and whether any or all of the thoroughbred facilities in such counties shall be preserved or acquired by the state for the best interest of the people of the state.*

Section 6. Section 9 of chapter 98-190, Laws of Florida, is amended to read:

Section 9. Effective July 1, *2003* ~~2001~~, subsection (11) of s. 550.615, Florida Statutes, is repealed.

Section 7. Section 10 of chapter 2000-354, Laws of Florida, is amended to read:

Section 10. Effective July 1, *2003* ~~2001~~, paragraph (a) of subsection (2) of section 550.09515, Florida Statutes, as amended by section 4 of chapter 98-190, Laws of Florida, is reenacted to read:

550.09515 Thoroughbred horse taxes; abandoned interest in a permit for nonpayment of taxes.—

(2)(a) ~~Notwithstanding the provisions of s. 550.0951(3)(a),~~ The tax on handle for live thoroughbred *horserace* ~~horse~~ performances shall be *0.5 percent.* ~~subject to the following:~~

~~1. The tax on handle per performance for live thoroughbred performances is 2.25 percent of handle for performances conducted during the period beginning on January 3 and ending March 16; .70 percent of handle for performances conducted during the period beginning March 17 and ending May 22; and 1.5 percent of handle for performances conducted during the period beginning May 23 and ending January 2.~~

~~2. However, any thoroughbred permitholder whose total handle on live performances during the 1991-1992 state fiscal year was not greater than $34 million is authorized to conduct live performances at any time of the year and shall pay 0.5 percent on live handle per performance.~~

And the title is amended as follows:

On page 9, line 5, after the semicolon,

insert: providing for a study of thoroughbred racing in Miami-Dade and Broward Counties; requiring a report; amending s. 9 of ch. 98-190, Laws of Florida; postponing repeal of provisions relating to intertrack wagering broadcasts; amending s. 10 of ch. 2000-354, Laws of Florida; postponing effective date of provisions modifying the tax on handle for live thoroughbred performances;

Rep. Garcia moved the adoption of the amendment to the amendment.

Further consideration of **CS for SB 1692**, with pending amendments, was temporarily postponed under Rule 11.10.

On motion by Rep. Byrd, the House moved to the consideration of CS for SB 466.

CS for SB 466—A bill to be entitled An act relating to public employment; amending s. 20.23, F.S.; eliminating provisions requiring that the inspector general position in the Department of Transportation be within the Career Service System; repealing ss. 110.108, 110.109, F.S., relating to personnel pilot projects, productivity improvement, and personnel audits of executive branch agencies; amending s. 110.1091, F.S.; providing requirements for a program to assist state employees; repealing s. 110.1095, F.S., relating to supervisory and management training and continuing education for executive branch agencies; amending s. 110.1099, F.S.; providing for state employees to receive vouchers or grants to attend public educational institutions under specified circumstances; requiring the Department of Management Services to adopt rules; conforming language; amending s. 110.1127, F.S.; providing for security background checks for certain state employee positions; amending s. 110.113, F.S.; requiring all state employees except those who receive an exemption to participate in the direct deposit program; amending s. 110.1245, F.S.; providing for a savings-sharing program for employees whose proposals result in savings; providing for bonus payments; eliminating the meritorious service awards program; requiring that such bonuses be paid from funds authorized by the Legislature; repealing s. 110.1246, F.S., relating to lump-sum bonus payments; amending s. 110.129, F.S.; authorizing the Department of Management Services to furnish technical assistance to improve personnel administration for municipalities or other political subdivisions; amending s. 110.131, F.S.; requiring approval by the Executive Office of the Governor for an extension in hours of other-personal-services temporary employment; providing certain exceptions; amending s. 110.203, F.S.; revising definitions; including the outsourcing and privatization of an activity or function within the definition of the term "layoff"; defining the term "firefighter" and "law enforcement or correctional officer"; creating s. 110.2035, F.S.; requiring the Department of Management Services to develop a classification and compensation program for certain employees; providing requirements for the program; requiring that the department submit a proposed plan to the Governor and the Legislature; requiring the department to adopt rules; amending s. 110.205, F.S.; providing for managerial employees and certain employees under a collective bargaining agreement to be exempt from the Career Service System; providing for carrying leave forward; amending s. 110.211, F.S.; authorizing the Department of Management Services to contract for recruitment services; amending s. 110.213, F.S.; requiring a probationary period for new employees; revising requirements for agency heads in selecting employees; providing certain restrictions for leave benefits for Senior Management Service employees; providing for annual payouts for a specified amount of unused annual leave for career service employees; amending s. 110.219, F.S.; revising provisions governing attendance and leave; providing for a year-end cash-out of annual leave by specified employees under specified circumstances; amending s. 110.224, F.S.; providing for a public employee performance evaluation system; providing requirements for the system; authorizing the department to adopt rules; amending s. 110.227, F.S.; prohibiting "bumping"; providing certain exceptions; prescribing layoff procedures; amending the definition of cause for suspensions or dismissals; establishing grievance procedures; providing procedures for suspensions, reductions in pay, demotions, and dismissals; providing for appeals to the Public Employees Relations Commission; providing for hearings and final orders by the Public Employees Relations Commission; amending s. 110.233, F.S.; prohibiting certain political activity by a career service employee; amending s. 110.235, F.S.; requiring state agencies to implement training programs; amending s. 110.401, F.S.; providing for training and management-development programs for senior-level management; amending s. 110.403, F.S.; requiring the department to administer a professional development program; increasing the percentage of authorized positions within the Senior Management Service; amending s. 110.601, F.S.; providing for a system of personnel management; amending s. 110.602, F.S.; eliminating a limitation on the percentage of authorized positions within the Selected Exempt Service; amending s. 110.605, F.S.; providing for personnel rules, records, reports, and performance appraisals; amending s. 110.606, F.S.; requiring the department to collect certain data with respect to classifications with the Selected Exempt Service; amending ss. 288.708 and 440.4416, F.S.; providing for the executive director of the Florida Black Business Investment Board and the members of the Workers' Compensation Oversight Board to be subject to the Senior Management Service System; amending s. 216.262, F.S.; providing for the Legislative Budget Commission to authorize a state agency to retain moneys associated with eliminated positions under certain circumstances; amending s. 447.201, F.S.; providing public policy with respect to public employees; amending s. 447.205, F.S.; removing reference to the Department of Labor and Employment Security; conforming language; amending s. 447.207, F.S.; revising authority of the commission to hear certain appeals; conforming provisions to changes made by the act; amending s. 447.208, F.S.; conforming language; amending procedures for specified appeals; amending s. 447.507, F.S.; revising requirements for the probation served by certain public employees; amending s. 112.215, F.S.; authorizing certain pretax, trustee-to-trustee transfer of deferred compensation accounts; repealing s. 125.0108(2)(d), F.S., relating to the former Career Service Commission; transferring the Public Employees Relations Commission from the Department of Labor and Employment Security to the Agency for Workforce Innovation; transferring powers, duties, functions, rules, records, personnel, property, and unexpended balances; providing for the commission's independence under specified circumstances; requiring the Department of Management Services to adopt rules; requiring that the department develop a performance agreement between management employees and agency heads; creating s. 110.1315, F.S.; authorizing the department to contract for an alternative retirement program for temporary and seasonal employees; providing requirements for selecting a vendor; amending s. 447.403, F.S.; revising requirements for resolving an impasse in collective bargaining negotiations; prohibiting the appointment of a mediator if the Governor is the employer; providing a procedure for resolving such impasse; amending s. 216.163, F.S., relating to an impasse in collective bargaining negotiations; conforming provisions to changes made by the act; creating a Career Service Advisory Board; providing for selection of members; providing powers and duties; authorizing the Governor to develop a tax-sheltered plan for leave and special compensation pay for specified employees; providing effective dates.

—was taken up, having been read the second time, earlier today; now pending on motion by Rep. Diaz-Balart to adopt Amendment 1.

Rep. Diaz-Balart suggested the absence of a quorum. A quorum was present [Session Vote Sequence: 388].

The question recurred on the adoption of **Amendment 1**, which was adopted. The vote was:

Session Vote Sequence: 389

Yeas—71

The Chair	Barreiro	Brown	Diaz de la Portilla
Allen	Baxley	Brummer	Diaz-Balart
Andrews	Bean	Byrd	Dockery
Argenziano	Bennett	Cantens	Farkas
Arza	Bense	Carassas	Fasano
Attkisson	Benson	Clarke	Fiorentino
Atwater	Berfield	Crow	Garcia
Baker	Bilirakis	Davis	Gardiner
Ball	Bowen	Detert	Gibson

Goodlette	Kallinger	Mayfield	Ross
Green	Kottkamp	Maygarden	Rubio
Haridopolos	Kravitz	Mealor	Russell
Harper	Kyle	Melvin	Simmons
Harrell	Lacasa	Murman	Sorensen
Harrington	Littlefield	Negron	Spratt
Hart	Lynn	Paul	Wallace
Hogan	Mack	Pickens	Waters
Jordan	Mahon	Prieguez	

Nays—47

Alexander	Gottlieb	Lerner	Seiler
Ausley	Greenstein	Machek	Siplin
Bendross-Mindingall	Henriquez	McGriff	Slosberg
Betancourt	Heyman	Meadows	Smith
Brutus	Holloway	Miller	Sobel
Bucher	Jennings	Needelman	Stansel
Bullard	Joyner	Peterman	Trovillion
Cusack	Justice	Rich	Weissman
Fields	Kendrick	Richardson	Wiles
Frankel	Kilmer	Ritter	Wilson
Gannon	Kosmas	Romeo	Wishner
Gelber	Lee	Ryan	

Under Rule 10.13(b), the bill was referred to the Engrossing Clerk.

Reconsideration of CS/CS/HB 1121

On motion by Rep. Byrd, the House reconsidered the vote by which **CS/CS/HB 1121**, as amended, passed earlier today.

CS/CS/HB 1121—A bill to be entitled An act relating to driver licenses; amending s. 322.02, F.S.; providing legislative intent with regard to the delivery of driver license services; authorizing county tax collectors to serve as exclusive agents of the Department of Highway Safety and Motor Vehicles; amending s. 322.135, F.S.; providing an application process for county tax collectors to serve as exclusive agents; creating the Cost Determination and Allocation Task Force; establishing the duties and responsibilities of the task force; providing for the development of transition plans to transfer certain responsibilities to tax collectors; providing an effective date.

Reconsideration

On motion by Rep. Byrd, by the required two-thirds vote, the House reconsidered the vote by which **Amendment 1** was adopted. The question recurred on the adoption of the amendment, which was withdrawn.

The question recurred on the passage of CS/CS/HB 1121. The vote was:

Session Vote Sequence: 390

Yeas—114

The Chair	Benson	Detert	Harrell
Alexander	Berfield	Diaz de la Portilla	Harrington
Allen	Betancourt	Dockery	Hart
Andrews	Bilirakis	Farkas	Henriquez
Argenziano	Bowen	Fasano	Heyman
Arza	Brown	Fiorentino	Hogan
Attkisson	Brummer	Frankel	Holloway
Atwater	Brutus	Gannon	Jennings
Ausley	Bucher	Garcia	Jordan
Baker	Bullard	Gardiner	Joyner
Ball	Byrd	Gelber	Justice
Barreiro	Cantens	Gibson	Kallinger
Baxley	Carassas	Gottlieb	Kendrick
Bean	Clarke	Green	Kilmer
Bendross-Mindingall	Crow	Greenstein	Kosmas
Bennett	Cusack	Haridopolos	Kottkamp
Bense	Davis	Harper	Kravitz
Kyle	Mealor	Ritter	Sorensen
Lacasa	Melvin	Romeo	Spratt
Lee	Miller	Ross	Stansel
Lerner	Murman	Rubio	Trovillion
Littlefield	Needelman	Russell	Wallace
Lynn	Negron	Ryan	Waters
Machek	Paul	Seiler	Weissman
Mack	Peterman	Simmons	Wiles
Mahon	Pickens	Siplin	Wilson
Mayfield	Prieguez	Slosberg	Wishner
Maygarden	Rich	Smith	
Meadows	Richardson	Sobel	

Nays—2

Fields	McGriff

Votes after roll call:
Nays to Yeas—Fields

So the bill passed and was immediately certified to the Senate.

On motion by Rep. Byrd, the House returned to consideration of CS for SB 1692.

CS for SB 1692—A bill to be entitled An act relating to pari-mutuel wagering; providing a title; requiring dogracing permitholders to provide a greyhound-adoption booth at each dogracing facility in the state; requiring that the booth be operated by certain qualified persons on weekends; requiring that information concerning the adoption of a greyhound be made available to the public at the facility; requiring the permitholder to provide adoption information in racing programs and to identify greyhounds that will become available for adoption; authorizing the permitholder to hold an additional charity day that is designated as "Greyhound Adopt-A-Pet Day"; requiring that profits derived from the charity day be used to fund activities promoting the adoption of greyhounds; authorizing the Division of Pari-mutuel Wagering within the Department of Business and Professional Regulation to adopt rules; providing penalties; amending s. 550.1647, F.S., relating to unclaimed tickets and breaks with respect to greyhound racing; defining the term "bona fide organization that promotes or encourages the adoption of greyhounds"; providing an effective date.

—was taken up, having been read the second time earlier today; now pending on motion by Rep. Garcia to adopt Amendment 1 to Amendment 1.

The question recurred on the adoption of **Amendment 1 to Amendment 1**.

Point of Order

Rep. Greenstein raised a point of order, under Rule 12.9, that the amendment to the amendment was not germane.

The Chair [Speaker Feeney] referred the point to the Chair of the Committee on Rules, Ethics & Elections. Pending a ruling, further consideration of the bill, with pending amendments, was temporarily postponed.

Messages from the Senate

The Honorable Tom Feeney, Speaker

I am directed to inform the House of Representatives that the Senate has passed HBs 69 and 115; CS/HB 157; HB 395; CS/HB 479; HBs 559, 585, 629, 763, 775, and 777; CS/HB 795; HBs 799, 845, 847, 849, 851, 853, 855, 857, 859, 863, 867, 873, 879, 885, 887, 891, 897, 901, 903, 905, 911, 917, 919, 927, 929, 931, 937, 939, 941, 943, 945, 975, 1037, 1041, 1115, 1125, and 1183; CS/CS/HB 1193; and HBs 1323, 1519, 1785, 1815, 1851, 1855, 1857, 1859, 1887, 1897, and 1899.

Faye W. Blanton, Secretary

The above bills were ordered enrolled.

Motion to Adjourn

Rep. Maygarden moved that the House adjourn for the purpose of holding committee and council meetings and conducting other House business, to reconvene at 10:00 a.m., Thursday, May 3. The motion was agreed to.

Recorded Votes

Rep. Atwater:

Change from Yeas to Nays—Amendment 2 to CS for SB 924

Rep. Bean:

Yeas—CS for CS for SB 710; CS/HB 1921; motion to reconsider the vote by which HB 1943 failed to pass

Nays—motion to consider a late-filed amendment to HJR 951

Rep. Bendross-Mindingall:

Yeas—HB 559; HB 853

Rep. Carassas:

Change from Yeas to Nays—passage of CS/CS/HB 1053 after reconsideration; SB 1766

Rep. Crow:

Yeas—CS for SB 1306

Nays—motion to reconsider the vote by which HB 1943 failed to pass; passage of HB 1943 after reconsideration

Rep. Feeney:

Yeas—HB 251; HB 489; CS/HB 1253; CS for SB 1610; HB 1711; HB 1715; HB 1719; HB 1737

Change from Yeas to Nays—CS/HB 795; HB 821

Rep. Fields:

Change from Yeas to Nays—CS/HB 1927

Rep. Harrington:

Change from Yeas to Nays—CS/HB 949

Rep. Joyner:

Nays—HB 1545

Change from Nays to Yeas—CS for SB 1568

Rep. Lee:

Change from Nays to Yeas—CS for CS for CS for SB 1202

Rep. Sorensen:

Change from Nays to Yeas—SB 226

Prime Sponsors
HB 651—Cantens
HB 1637—Slosberg

Cosponsors
HB 45—Fiorentino
HB 69—Fiorentino
CS/HB 85—Fiorentino
HB 95—Fiorentino
CS/HB 137—Fiorentino
CS/HB 141—Fiorentino
HB 149—Bucher
CS/HB 213—Brummer
CS/HB 249—Bucher
HB 251—Fiorentino
HB 329—Fiorentino
CS/HB 341—Bucher
HB 373—Detert, Fiorentino, Murman
CS/HB 409—Fiorentino
CS/CS/HB 411—Joyner
CS/HB 475—Detert, Fiorentino, Lynn, Murman
CS/CS/HB 503—Haridopolos
HB 505—Fiorentino
CS/HB 605—Argenziano
HB 613—Bilirakis
HB 649—Bucher
HB 651—Fiorentino, Kravitz
CS/HB 973—Argenziano
CS/CS/HB 1509—Wiles
HB 1601—Holloway
CS/HB 1633—Brummer
HB 1673—Wiles
HB 1777—Arza, Hogan, Lynn
HB 1845—Wiles
HR 9003—Baxley, Kottkamp

Withdrawals as Cosponsor
CS/HB 255—Gibson

Introduction and Reference

By the Procedural & Redistricting Council; Representatives Goodlette, Smith, and Rubio—

HB 1987—A bill to be entitled An act relating to elections; creating the "Florida Election Reform Act of 2001"; amending s. 97.021, F.S.; revising certain definitions applicable to the Florida Election Code to remove provisions relating to voting systems that use voting machines or paper ballots and to restrict such definitions to electronic or electromechanical voting systems; amending s. 101.015, F.S.; requiring the Division of Elections to review the voting systems certification standards to ensure that new technologies are available and appropriately certified for use; amending s. 101.151, F.S.; providing general specifications for ballots; deleting provisions specific to certain elections and voting systems; requiring the Department of State to adopt rules prescribing uniform primary and general election ballots for each certified voting system; amending s. 101.5603, F.S.; revising definitions relating to the Electronic Voting Systems Act to specify touchscreen voting systems as electronic or electromechanical voting systems and to remove provisions relating to voting machines; amending s. 101.5604, F.S.; requiring any electronic or electromechanical voting system used by a county to be a precinct tabulation system; prohibiting at a specified time the use of any voting system that uses an apparatus or device for the piercing of ballots by the voter; amending s. 101.5606, F.S.; providing additional requirements for electronic or electromechanical voting systems; amending s. 101.5607, F.S.; conforming a cross reference; amending s. 101.5608, F.S.; providing procedures to be followed after a vote tabulation device rejects a ballot; amending s. 101.5612, F.S.; providing standards and requirements for the testing of electronic or electromechanical voting systems; providing recordkeeping requirements; amending s. 101.5614, F.S.; removing references to the canvassing of returns at central or regional locations, to conform; revising requirements for the transmission of precinct returns; providing for adoption of security guidelines by rule; creating s. 101.595, F.S.; requiring supervisors of elections and the Department of State to report on voter errors following the general election; amending s. 101.292, F.S.; modifying the definition of "voting equipment," applicable to purchasing requirements, to remove provisions relating to voting machines; amending s. 102.012, F.S.; providing the time for each election board to arrive at the polling place; removing provisions relating to voting machines; amending s. 104.30, F.S.; prohibiting any unauthorized person from unlawfully possessing any voting system or component thereof; prohibiting any person from tampering or attempting to tamper with or destroying any voting system or equipment with the intention of interfering with the election process or the results thereof; providing penalties; removing references to voting machines, to conform; amending ss. 98.471, 100.341, 100.361,

101.21, 101.24, 101.34, 101.341, 101.43, 101.49, 101.58, 101.71, 101.75, 103.101, 138.05, and 582.18, F.S.; removing provisions relating to voting systems that use voting machines or paper ballots and revising references to conform to changes made by the act; repealing ss. 100.071, 101.141, 101.181, 101.191, 101.251, and 101.5609, F.S., relating to the specifications and form of ballots, to conform; repealing ss. 101.011, 101.27, 101.28, 101.29, 101.32, 101.33, 101.35, 101.36, 101.37, 101.38, 101.39, 101.40, 101.445, 101.45, 101.46, 101.47, 101.54, 101.55, and 101.56, F.S., relating to voting systems that use voting machines or paper ballots, to conform; amending s. 97.021, F.S.; providing definitions; creating s. 101.048, F.S.; providing procedures for voting and counting provisional ballots; amending s. 101.045, F.S.; requiring verification of an elector's eligibility if the elector's name is not on the precinct register; amending s. 101.5614, F.S.; providing for the return of provisional ballots to the supervisor of elections; providing for the canvass of provisional ballots; clarifying the standard for counting votes on spoiled ballots; providing a penalty for releasing the results of an election prior to the closing of the polls; amending s. 101.69, F.S.; allowing a voter who has requested an absentee ballot and who decides to vote at the polls on election day to vote a provisional ballot, if the absentee ballot is not returned; amending s. 102.111, F.S.; changing the composition of the Elections Canvassing Commission; revising provisions for filling vacancies on the commission; amending s. 102.112, F.S.; revising the deadline for submission of county returns to the Department of State following the general election; providing that late returns shall be ignored; providing an exception due to an emergency; eliminating provisions establishing fines for late reporting; amending s. 102.141, F.S.; clarifying canvassing procedures relating to election recounts; providing conditions under which a manual recount is required; amending s. 102.166, F.S., relating to election protest; providing procedures for requesting a manual recount; providing for the use of certain standards for determining voter intent; repealing s. 102.167, F.S., relating to the form of protest of election returns; amending s. 102.168, F.S.; revising requirements for contesting an election; providing that the Elections Canvassing Commission is a defendant in certain contested elections; removing certain authority of circuit judges to fashion orders relating to contests; creating s. 97.0555, F.S.; providing for registration of certain military and overseas persons; requiring the Department of State to adopt rules specifying eligibility; creating s. 101.6951, F.S.; providing for a state write-in absentee ballot for overseas voters; creating s. 101.6952, F.S.; providing for absentee ballots for overseas voters, including advance ballots; creating s. 101.697, F.S.; providing for absentee ballot requests and voting via electronic transmission by overseas voters under certain circumstances; creating s. 101.698, F.S.; authorizing the Elections Canvassing Commission to adopt emergency rules during crises to facilitate absentee voting; amending s. 101.62, F.S.; modifying information on absentee ballot requests; amending s. 101.64, F.S.; modifying absentee ballot certificates; amending s. 101.65, F.S.; modifying instructions to absent electors; amending s. 101.657, F.S., relating to voting absentee ballots; conforming provisions; amending s. 101.68, F.S.; modifying information that must be included on an absentee ballot; authorizing the processing of absentee ballots through tabulations for a specified period before the election; prohibiting the release of the results of a canvassing or processing of absentee ballots prior to the closing of the polls; providing a penalty; amending s. 104.047, F.S.; deleting a prohibition against persons witnessing more than five ballots in an election and a prohibition against returning more than two ballots in an election, and the penalties therefor; repealing ss. 101.647 and 101.685, F.S., relating to returning absentee ballots and absentee ballot coordinators; amending s. 98.255, F.S.; providing for voter education; amending s. 101.031, F.S.; providing for a Voter's Bill of Rights and Responsibilities; providing responsibilities of supervisors of elections; amending s. 101.131, F.S.; eliminating a requirement to call out names of voters; amending s. 97.073, F.S.; revising procedures to be followed when a voter registration application is incomplete; creating s. 102.014, F.S.; providing for pollworker recruitment and training; repealing s. 102.012(8) and (9), relating to pollworker training, to conform; amending s. 102.021, F.S.; to correct a cross-reference; providing for a study of the elections process in multiple time zones; creating s. 98.0977, F.S.; providing for development of a statewide voter registration database; providing for update of information in the database; requiring quarterly progress reports to the Legislature until fully implemented; providing for an operational date; creating s. 98.0979, F.S.; providing that voter registration information is public except for information made confidential by law; providing requirements for securing copies of any voter registration information; repealing s. 98.0975, F.S., relating to the central voter file maintained by the Division of Elections; providing for distribution of funds appropriated for voter education; providing for the appropriation from the General Appropriations Act to be used to implement the provisions of the act; providing severability; providing effective dates.

First reading by publication (Art. III, s. 7, Florida Constitution).

Conference Committee Managers Excused

The following Conference Committee Managers were excused from time to time:

CS/SB 1118 (elections): Rep. Byrd, Chair; Reps. Goodlette, Rubio, and Smith.

SBs 2000 and 2002 (appropriations): Rep. Lacasa, Chair; At Large—Reps. Fasano, Greenstein, Murman, Wallace, Wilson, and Sobel (alternate); Transportation & Economic Development Appropriations—Rep. Johnson, Chair, Reps. Bense, Hart, Jennings, Ritter, Rubio, Berfield (alternate), and Hogan (alternate); Health & Human Services Appropriations—Rep. Maygarden, Chair, Reps. Brummer, Farkas, Green, Rich, Slosberg, Benson (alternate), Brutus (alternate), and Garcia (alternate); Education Appropriations—Rep. Lynn, Chair, Reps. Alexander, Flanagan, Justice, Melvin, Stansel, Arza (alternate), Bucher (alternate), and Mealor (alternate); Criminal Justice Appropriations—Rep. Ball, Chair, Reps. Barreiro, Bilirakis, Mahon, Meadows, Seiler, and Bowen (alternate); General Government Appropriations—Rep. Dockery, Chair, Reps. Holloway, Kilmer, Miller, Siplin, Spratt, and Brown (alternate).

Adjourned

Pursuant to the motion previously agreed to, the House adjourned at 7:24 p.m., to reconvene at 10:00 a.m., Thursday, May 3.